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THE INDIAN PROBLEM 1833—1935

THE FIRST PART OF A REPORT ON
THE CONSTITUTIONAL PROBLEM IN
INDIA SUBMITTED TO THE WARDEN
AND FELLOWS OF NUFFIELD COLLEGE,
OXFORD

BY

R. COUPLAND

ESQ. CIE, M.A. HONORARY (DURHAM)

FELLOW OF ALL SOULS COLLEGE AND OF NUFFIELD COLLEGE

SENIOR PROFESSOR OF COLONIAL HISTORY IN THE UNIVERSITY OF OXFORD



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MAP

The Indian Provinces and States in 1935 *back encl papers*

INTRODUCTION

INDIA it is often said is more like a continent than a country more like Europe than one of its component nations. For the student of politics the point of the comparison is not primarily a question of size. India it is true is a vast country containing nearly 390 million people but owing to the progress of science mere size of territory or population is no longer a primary factor in the problem of government. The major point the major difference between India and any other country in the world lies in the diversity of Indian life. Centuries of conquest and infiltration from without have made Indian society a complex of races languages creeds and customs more variegated than that of Europe and the domestic history of India has been till very recent times a record of constant conflict between rival races and rulers. Yet it is not for nothing that in the eyes of the outer world India is one country and all its people Indian. The factors making for unity are stronger in India than in Europe. Girt by the Himalayas and the sea, the Indian sub-continent is a natural geographical unit. No real strategic frontiers cross it. It does not possess that broken coastline those peninsulas and islands which have fostered the growth of separate nations in Europe. And there is a certain unity underlying all the diversities of Indian culture. The creeds and customs which from age to age have been woven into that ancient civilisation have acquired so to speak a local colour some of them superficially others profoundly they have all been Indianised. There is more in Mother India than mere sentiment or mere geography. Is there enough in it to keep her diverse and discordant children within the frame, be it stiff or loose of one free political society?

There lies the core of the constitutional problem which will be examined and discussed in this Report. This first part of it will describe the development of self government and its corollary the process of decentralisation which led up to the existing constitution. The second part will deal in greater detail with the operation of that constitution during the last few years. In the third and last part an attempt will be made to state the main facts that must be faced and to suggest some possible ways of dealing with them if a system of government is now to be devised both for the great Provinces and for India as a whole, in which the twin principles of freedom and unity are balanced and combined. At each stage it is the interplay of those twin principles that will demand our closest attention. It will be found that for a generation past the stress in Indian politics has been all on freedom, but that now, when the full attainment of freedom is in sight the balance has swung over and unity has become again as it was when British

rule began, the major Indian problem. The situation in India, in fact, reflects the situation in the world at large. It is primarily for freedom that the United Nations are fighting because its very existence is at stake. But the freedom which our victory will save or restore to all nations will be unfruitful and precarious unless it is combined with the greatest practicable measure of international unity.¹

¹ In a lecture delivered at Patna in 1924 the author urged the need of combining unity with freedom and illustrated his theme from the history of the British Commonwealth. (*Freedom and Unity*, Bombay, 1924, reprinted in *The Empire in These Days*, London, 1935)

CHAPTER I

THE STRUCTURE OF THE BRITISH RAJ

I BRITISH INDIA

THE process by which within a century after Plassey the whole sub continent of India¹ except the kingdom of Nepal was brought under British control was a twofold process and its results were twofold imposing on the structure of Indian government a dualism which has persisted ever since. About three fifths of the country were annexed to the British Crown mainly as the result of war and conquest—war with the Nawab of Bengal with the rulers of Mysore with the Marathas with the Amirs of Sind with the Sikhs—but partly by taking over without fighting territories in which the government was intolerably bad or in which the title of the ruling dynasty was held to have lapsed through lack of lawful heirs. In all this area no attempt was made to repeat the Company's ill fated experiment in Bengal. No puppet princes were installed to serve as the instruments of British policy. The previous Indian rulers and their civil and military officers were set aside, and the people subjected to direct British administration. Thus the greater part of India became British India and its inhabitants who now number about 290 millions British subjects. But the whole of India was not thus conquered or otherwise annexed. Two fifths of it peopled now by about 93 millions were brought into quite a different relationship with the British Crown. As the outcome of political and military exigencies mostly in the earlier period of British expansion agreements were concluded between the representatives of the British Government in India and a number of Indian rulers or chiefs who had established their independence after the breakdown of the Mogul Empire. Under these agreements which will be briefly examined later in this chapter the ruling dynasties surrendered the management of their external relations to the British Crown but continued to control under certain conditions the domestic affairs of their States. Though by accepting the suzerainty of the Crown they were brought within the ambit of the British Empire their territories did not become British soil nor their subjects British subjects. Thus India was divided into two distinct parts in which the basis and form of government were quite different.

In British India the form of government was virtually dictated by Parliament's acceptance of responsibility for its welfare. Parliament could make laws as to how India should be governed but it could not govern it.

¹ Upper Burma was not annexed till 1886 but Burma which was separated from India in 1937 will be regarded as outside the compass of this book.

As in other fields of administration, in foreign affairs, in the colonies or at home, it could only exert its will through a minister, responsible to it; and in far-off India the minister could only operate through an agent or agents on the spot, responsible to him. So from 1773 onwards, as the exercise of parliamentary responsibility became steadily more direct and effective till in 1858 the assumption of complete control was marked by the creation of a Secretary of State for India, the method of government approximated more and more closely to the method which had long been employed in other dependent territories of the British Empire and which has been called 'Crown Colony government'. Its basic principle is parliamentary control, operating through a Secretary of State, who in turn operates through a Governor. For purposes of administration the Governor is given autocratic powers. He is aided and advised by an Executive Council, normally consisting of officials only, but he can overrule their advice provided that he informs the Secretary of State that he has done so. For purposes of legislation, similarly, since Parliament or the King in Council can only properly make the few major laws establishing the framework and powers of the government on the spot and not the multitude of minor laws required to meet local conditions, the Governor is given authority as law maker and for this he also acts with a Council which may be the Executive Council acting in a legislative capacity, or the same Council enlarged for the purpose, or a separate Legislative Council. Non-official members of the community may be nominated by the Governor, or in some cases elected by public bodies or constituencies, to sit in the enlarged or Legislative Councils. But the officials must always be in a majority. Directly the number of non-officials, whether nominated or elected or both, exceeds the number of officials, the government ceases to be Crown Colony government. For, unless the Governor is empowered to legislate by himself—and that only happens in backward colonial areas or in colonies which are primarily military strongholds—he must be able to obtain from his Council the measures, financial and otherwise, which he deems necessary for good government, and he can only be sure of that if the majority of the Council are officials, bound in the last resort to do as he tells them. Otherwise he cannot discharge his responsibility to the Secretary of State, nor can the Secretary of State discharge through his agency his responsibility to Parliament. In British India, as in a Crown Colony, the government, till recent times, was necessarily of this kind. It was government by officials, because only so could Parliament fulfil the 'trust' it had assumed.

For the same reason it was a unitary government. Before Parliament

* The status of the Governor-General of India is higher than that of the Governor of a Colony. His appointment is a matter for the Cabinet and is made by the Crown on the Prime Minister's advice, not that of the Secretary of State alone. Similarly, the members of the Governor-General's Executive Council have a higher status than the members of a Colonial Council: they are more like Cabinet Ministers, and share with the Governor-General in a collective responsibility to Parliament which exercises its control through the Secretary of State.

intervened the territories acquired by the East India Company had been divided into three Presidencies Bengal Madras and Bombay each with a Governor and Council responsible to the Company in London and each entirely independent of the other two. But when Parliament decided to take a hand in the Company's administration it seemed simpler and more effective to operate through one local agent than three and a policy of centralisation was begun by the Act of 1773 which provided that the Governor of Bengal should become Governor General with authority to superintend and control in certain matters the Governments of Madras and Bombay. In the course of the next fifty years Bengal became swollen by further territorial acquisitions—Benares in 1775 Orissa in 1803 a wide area in the North West in 1801 to 1803 and Assam and the coastal districts of Burma in 1824. In 1836 to adjust this overgrowth a separate Lieutenant Governorship was created for the North Western area which ultimately became the United Provinces of Agra and Oudh and in 1853 a Lieutenant Governorship was also created for Bengal so as to relieve the Governor General of the task of local administration and enable him to confine his energies to the supervision of all British India. The continued expansion of British rule led to the formation of more territorial units till by 1919 British India (excluding Burma) was divided into fourteen Provinces—the collective term which was finally used for them all. All these Provinces had their own separate governments but they were not of a uniform type. In Bengal Madras and Bombay the government consisted of a Governor and Executive Council (Bengal having been raised to a full Governorship in 1912) in the United Provinces and Bihar and Orissa of a Lieutenant Governor and Executive Council and in the Punjab of a Lieutenant Governor acting alone while the remainder—the Central Provinces Assam the North West Frontier Province Ajmer Merwara Coorg Delhi British Baluchistan and the Andaman and Nicobar Islands—were administered by Chief Commissioners. But this multiplication of Provinces did not affect the principle of unitary control by the Central Government and the Secretary of State. How firmly that had become established in theory and in law may be seen from the three cardinal provisions of the Act of 1919 which consolidated previous legislation on Indian government in a single measure

(1) The Secretary of State may superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India (Section 2 (2))

(2) The superintendence direction and control of the civil and military government of India is vested in the Governor General in Council who is required to pay obedience to all such orders as he may receive from the Secretary of State (Section 33)

¹ All the Lieutenant Governorships and the first three of the Chief Commissionerships became Governorships after 1919. The other five Chief Commissionerships were too small to rank as Provinces proper.

(3) Every local government shall obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him or as to which he requires information (Section 45 (1)).

There was thus no division of authority, no trace of the federal idea, in the constitution of British India before 1919. The Provinces had no rights of their own. They were legally no more than administrative sections of British India, and their Governments no more than agents of the Central Government,¹ which in its turn was subordinate to the Secretary of State. But the possession of legal power is one thing, its exercise in practice is another; and the extent to which either the Secretary of State or the Central Government could 'superintend, direct and control' the Provincial Governments was necessarily limited by two primary factors. The first was distance. In early days communications between India and England and within the vast area of India itself were slow and uncertain, and both the Provincial and the Central Governments were often compelled to take action without awaiting the approval of the higher authority, which thus sometimes found itself committed, whether it approved or not, to acquiescence in a *fait accompli*. The factor of distance, however, lost much of its force when in 1865 it became possible to telegraph from England to India by cable, when in 1869 the Suez Canal was opened, and when a new network of railways, roads and telegraphs spread over India. The result was a marked stiffening of control by Whitehall over the Central Indian Government and by the Centre over the Provinces, a process which reached its peak at the end of the nineteenth century and the beginning of the twentieth. No Secretary of State concerned himself so closely with the details of Indian administration as Lord Morley. No Viceroy made his power and influence more sharply felt throughout the length and breadth of India than Lord Curzon.

Yet even the most dictatorial and industrious Secretary of State or Viceroy was still prevented from carrying centralised control beyond a certain point. It was not only distance, which can be minimised but never annihilated. There was a second factor: the huge volume of business involved. It was utterly impossible for the India Office to control the day-to-day administration of a sub-continent, inhabited by more than 200 million people. It was more possible at Calcutta or at Simla than in London, but only if the Central Government were run on a very great scale at a very great cost. In fact, the small size of the Central Government compared with that of India has often been remarked. It has never comprised more than ten departments, nor employed more than about 150 first-grade civil servants.

In general, therefore, the powers of superintendence, direction and

¹ 'Central Government' will be used for convenience in this book instead of the legal designation 'Governor-General in Council' or the more common title 'Government of India'. 'Local government' in the Act meant the Government of a Province.

control' were exercised in matters of policy rather than of current administration. And for this two main instruments were employed, one financial, one legislative. Finance is the foundation of all government, and in nothing else was the supremacy of the Secretary of State so clearly affirmed. Thus the Act of 1915 expressly prescribed that no grant should be made from 'the revenues of India' without the assent of the Secretary of State, and a majority of his Council—a body of advisers, mostly with experience of India, appointed by him. This did not mean in practice that every item of expenditure was scrutinised in Whitehall: most of the field was covered by an elaborate series of financial rules laid down with statutory authority by the Secretary of State. But it did mean that not only the broad financial policy but also all substantial projects of expenditure were carefully checked and effectively controlled by the Secretary of State, who submitted a report on the Indian budget every year to Parliament. All government loans, moreover, required the sanction of the Secretary of State in Council, and those raised in Britain on India's behalf were raised directly by that authority. ✓

✓ Still closer was the Central Government's grip on the finances of the Provinces. Before 1919 there was no legal division between their financial resources and those of the Centre. They all belonged to 'the revenues of India'. No distinction was made between the classes of taxes that might be levied by the Central and Provincial Governments respectively, and money raised directly by the latter became part of the common revenue as much as money raised within a Province by Central taxation. To a share in any of the proceeds the Provinces had no legal claim, and at one time they depended mainly on what was handed out to them by the Centre. But so centralised a system was difficult to work, and in due course a series of settlements were made in accordance with the needs of the various Provinces and their ability to raise funds within their own borders. By the end of the nineteenth century it had become customary to regard these settlements as *quasi* permanent, though they might be supplemented, if conditions were favourable, by doles from the Centre, and the Centre was thus able to relax the close control it had previously exercised over the budgets of every Provincial Government. Rules were made authorising Provincial expenditure for stated purposes within stated limits without obtaining the previous sanction of the Central Government and through it of the Secretary of State. New proposals for taxation, however, like other legislative proposals, had to be approved beforehand, and no Provincial Government had authority to raise a loan. ✓

✓ The legislative method of control was simpler. Neither the Central nor a Provincial Government could introduce any bill, other than a purely formal one, unless its actual terms, or at least a full statement of its scope and purposes, had been approved by the Secretary of State, and sufficient time had to be allowed to enable him to forestall its introduction by vetoing it outright or directing alterations to be made in it. In the

case of a Province this check was twofold, since the Central Government first examined its proposals and forwarded them, with its opinion on them, to the India Office. As long as the Governor-General and the Governors were in a position to control their legislative bodies by the command of official majorities, this method of control was quite as effective as the control of finance. Provincial laws were not only approved, they were to some extent directly framed, by the superior authorities. ✓

Apart from finance and legislation there was not—and, as has been pointed out, there could not be—any rigid and continuous control of the Provincial Governments. Unless some special question arose which demanded the intervention of the Centre or excited the interest of the Secretary of State or provoked inquiries in Parliament, Provincial Governments were permitted to carry on their day-to-day administration as might seem to them best in the light of varying local conditions. But they were expected to abstain from launching a new policy without the sanction of the Central Government and from dealing with a novel or difficult situation without at least informing the Centre as soon as possible afterwards. The same understanding obtained between the Central Government and the India Office, not only as to the former's own administrative problems, but also as to those which had been brought to its notice by the Provinces. Such scrutiny, in the case of the Provinces a double one, sounds formidable, but in fact the scope of its operation was relatively narrow, since most changes in administrative policy required new legislation or new expenditure or both, and therefore could not be initiated without the prior approval of the Centre and Whitehall. ✓

There was another factor making for the unity of British India. The higher personnel of the Provincial administrations was unitary in character. All the superior posts were held by members of the All-India Services (as they came to be called), and those services were recruited by the Secretary of State, who was responsible for their pay and pensions and, in the last resort, for their conduct. Their members' work was done for the most part in the Provinces, but some of them, mostly members of the Indian Civil Service, were drawn away from time to time to staff the departments at the Centre, and all of them, or at least the great majority who in those days were of British race, were conscious that they formed a single body of men on whom Parliament relied to fulfil the trust it had undertaken for the peace, order and good government of the country. ✓

In law and in fact, then, the government of India was highly centralised, probably as highly as the circumstances permitted. But it must not be supposed that the Provinces were thus degraded to the status of mere counties or municipalities or that their Governments were the docile creatures of the Centre. Bengal, Madras and Bombay, in particular, were conscious of their separate personality. Memories of their old independence were slow to die, and concrete traces of it lingered in the fact that their Governors were selected not as in other Provinces from the

Indian Civil Service but from the ranks of public men in England and that their Governments were entitled to correspond with the Secretary of State directly. These Provinces therefore were more critical of Central control and more outspoken in their comments on it. But as time went on the other Provinces tended to follow suit to develop their own individuality and air their own opinions just as the Central Government tended to become increasingly impatient of interference from Whitehall. To what extent the growth of this particularism was associated in Indian minds with past history will be considered in a later chapter but it is interesting here to note that it was reflected also in British minds. Those British All India officials knew as has been said that they were the servants of Parliament and of India but they felt themselves to be much more directly the servants of the Province in which they were posted. Most of them spent all their years of service in one Province. Many of them never saw another Province except in transit. To all except the few who became permanently engaged at the Centre the Government was primarily the Provincial Government, the Centre a distant outsider and the Secretary of State a still more remote and shadowy figure. And with this attitude went the sense of personal loyalty which is characteristic of an Englishman's feelings about the institutions or communities to which he is attached. They were as proud of their Province as of their university or their school. Its people were the best in India, its problems the most interesting, its natural features the most beautiful, its climate the least bad.

II THE INDIAN STATES

The organisation of that large part of India which was not annexed was very different from that of British India. In the first place it was divided into a far greater number of territorial units. The Indian States numbered no fewer than 362. Most of them however are relatively small. Some only a few square miles in area and more like estates than States. When a Chamber of Princes was set up in 1921 the rulers of only 109 states were represented individually and of the remainder the rulers of 27 were allotted only twelve representatives between them, the rest were not represented at all. In the second place the relationship of the States with the British Government was of quite another kind from that of the Provinces. It was a unique kind of relationship without a close parallel within the British Empire or elsewhere based on a multitude of specific agreements. With the smaller units the agreements did little more than recognise the rights of a landlord who might retain a limited judicial authority in his domain but in return for British recognition and protection would have to accept a large measure of British control in its administration. But with the more important States the agreements—treaties, engagements or *sanads*—were of a more balanced or bilateral

¹ See p 64 below

character.¹ The position established by them and by subsequent conventions and political decisions or usage is broadly as follows. The British Government on its side undertook to defend the ruler and his lawful successors from external or internal attack and not to interfere in the domestic concerns of his State except in the event of gross misgovernment. The ruler, for his part, accepted what came to be called the 'suzerainty' of the British Crown and agreed to surrender all control of his relations with other States to the 'Paramount Power', to provide military forces if required for the defence of India, and to co-operate in the extension of communications and other matters affecting India as a whole. Thus, on the one hand the rulers or, to give them their present-day collective title, the Princes, retained their domestic autonomy *quandiu se bene gesserint*, their territory did not become British soil, and their subjects did not become British subjects but remained their own subjects.² Nor was the British Parliament, or any legislature it might set up in India, entitled to make laws affecting the internal government of a State. On the other hand, the Princes were no longer sovereign in the full sense of the word. Not only were their internal affairs subject to supervision and in certain circumstances to intervention on the part of the Paramount Power, they could not deal with one another or with any other government except through the agency of that Power. ✓

This division between the Indian States and British India defies geography. The creation of historic accident, the States are scattered haphazard over the map. Here and there British territory is closely interlaced with theirs. But they can be grouped in eight more or less distinct blocks. (1) Kashmir and the States in Baluchistan³ and on the North-West Frontier; (2) the Punjab States with a population of 4½ millions, (3) Rajputana, with a compact area of some 29,000 square miles and over 11½ million people, (4) the Central group, of which the Maratha States of Gwalior and Indore are the most important, with 9 million people, (5) the Western group, comprising Baroda and the 'States of Kathiawar, with 8 million, (6) the Eastern States, with 8 million, (7) Hyderabad, with 15 million, Mysore, with 7 million, and the Deccan States with 2½ million, and (8) the Southern group, headed by Travancore (7 million).

The lack of any natural frontiers between the States and British India is reflected in the character of their respective peoples. The inhabitants of the States all spring from the same races, speak the same languages, profess the same religions as their neighbours over the border. The

¹ The text of a specimen treaty will be found in Appendix I, p. 153, below.

² For passport and other purposes abroad, subjects of Indian States are treated as 'British protected persons'.

³ Two thirds of Baluchistan and nearly half its population are comprised within the State of Kalat and its tributary, Las Bela. The chiefs of the tribal areas of the Marri and Bugtis are also in some sort feudatories of the Khan of Kalat. The rest of the country, containing about one-sixth of the total population, is under British administration. Part of it has been annexed, part leased from the Khan of Kalat, and part taken over at the request of its inhabitants.

principal cleft in Indian society, the cleft between Hindus and Moslems, cuts through the States as it does through the rest of India. But, whereas the Moslems number about one quarter of the total Indian population, they number only about one sixth of the population of the States. Most of the rulers are Hindus, but their religion is not necessarily that of the majority of their subjects. Thus the Nizam of Hyderabad, a Moslem, rules a country in which there is only one Moslem to every twelve Hindus, while the Maharaja of Kashmir a Hindu, has some three million Moslem and less than one million Hindu subjects.

✓The only difference, in fact between the States and British India is political—the difference in their form of government and in their relations with the British Raj. And this difference it is sometimes said, justifies the name that has been given to the States of Indian India. They are the true heirs of India's past, runs the argument. They alone have not been conquered or annexed. They alone have preserved the chain of Indian history unbroken by the foreigner. They alone have maintained the immemorial tradition of Indian monarchy. They alone manage their own domestic affairs in their own Indian way. They alone have civil and, in some cases, military services wholly of their own creation and under their own control. Progressive minded Indians in British India might admit so much, but they would go on to argue that the India which the States have kept in being is the India of the eighteenth century or in some cases almost of the Middle Ages, that generally speaking, they have lost touch with the advance in political ideas which despite direct British rule or because of it, has been achieved by the educated Indians of British India, that they belong to India's past and, unless they soon emerge from it, will lose their place in India's future. ✓

✓In so far as the government of the States is autocratic it does not differ in principle from the government of British India before 1919. But, whereas in British India autocracy was exercised indirectly by the official agents of a distant authority, the King Emperor in Parliament at Westminster, the ruler of a State was on the spot and his rule was direct and personal. There are natural limits to the powers of any autocrat, and a Prince's absolutism was tempered by usage and tradition, by religious and social sanctions, and by the rights and privileges of his nobles. ✓It has been an ancient custom in the East, moreover, for the ruler at regular and often frequent intervals to hold a *darbar* at which his subjects may appear before him and state their grievances and make their petitions.¹ When, as will be recorded in the next chapter, the principle of representative government was introduced in British India, one or two Princes adapted the *darbar* to the British model. ✓But by 1919 this process had not gone far. In five States legislative councils had been established and in three

¹ Descriptions of the *darbars* of the Mogul emperors are given in *Ain-i-Akbari* (trans. H. Blochmann, Calcutta, 1873-91), I, 156, and *The Embassy of Sir T. Roe* (London, 1899), 106-9.

representative assemblies of a kind, but the powers of these bodies were little more than advisory, they were only *durbars* in a new costume, and they were not intended to develop into effective instruments of the popular will or means of weakening the Prince's power.¹

In methods of administration the States were brought nearer to the British Indian model. In course of time the larger States 'adopted in a more or less modified and simplified form the penal code of British India, the procedure codes and some of the substantive laws'.² Departments were established, high courts set up, and local administration organised under district officers. For the charge of departments or for the bench Indians were sometimes borrowed from the public service of British India, and the post of prime minister in a leading State—the *dukan* as he is called in Hindu States, or *wazir* or some similar name in Moslem States—has attracted some of the ablest men in India. But, however efficient his officials might be the Prince remained the ruler. To quote an authoritative writer

The dominant note in native states is the absolutism of the ruler. In states of the Rajput type, where the chief is the head of the clan and the nobles are his blood-relations, it is qualified to some extent by their privileges and prescriptive rights. But in states of the ordinary type the ruler is the state, though he may choose to rule by deputies. At any time he may elect to put them aside and to take up the reins while some of the ablest princes of India have always kept the detailed administration of their states in their own hands with advantage to their subjects.³

Thus the personal autocracy of the States was something quite different from the official autocracy by which British India was governed till 1919 or at least till 1909. No less striking was the contrast between the unity of British India and the disunion of the States. The Provinces, as has been seen, were held tight together by their subjection, complete in law and considerable in practice, to the supreme authority of the Central Government and the Secretary of State. The States also shared in a common subordination to the Paramount Power, but it was of a much more limited character and much less effective as a unifying force. In the Provinces the power of the Central Government permeated every corner of the land; in the States it could not be exercised at all in their internal life, except by way of supervision and advice or in the rare event of the ruler completely failing to do his duty. And in external affairs their common subordination, while it linked them with the Paramount Power, did not link them to each other, before 1919 they could not deal with the Centre in combination, nor could they deal with one another except through the Centre. The only unity, in fact, which the States achieved was contained in the fact that the Governor-General, who established the practice of holding the States portfolio himself and thus keeping⁴

¹ Later constitutional developments in the States will be described in Part II.

² Sir T. W. Holderness, *Peoples and Problems of India* (Home University Library, 1912, revised edition, 1920), 184-5.

³ *Ibid.*, 185.

relations with the States mainly in his own hands was their common overlord as representative of the King Emperor that for keeping in touch with them and their affairs he employed a single corps of residents and political officers specially recruited for the purpose and that his various decisions on State questions tended to adhere to the same principles and precedents and so to establish a more or less uniform and consistent line of policy. Apart from that the States remained isolated incoherent units.

✓ But if there was little unity between the States themselves they were bound to share to some extent in the unity imposed by the force of circumstances on India as a whole. The economic development of India which steadily gathered strength as the nineteenth century proceeded inevitably affected the domestic life of the States: then peoples were entangled in innumerable ways in a common Indian economy. Nor was this only an individual or local matter. Some economic enterprises could only be projected on a national scale. The most obvious example was the railway system which had necessarily to cross States as well as Provinces. Nor to take another example could the Government of British India make the most of a revenue from customs duties still less develop a tariff policy if seaboard States were able to act quite independently. On such matters of common Indian concern therefore the Central Government attempted to secure and usually did secure agreement with the States. The result was sometimes an interesting illustration of the difference between British India and the States. For the process of agreement was often a bargaining process and the States were thus enabled to obtain privileges denied to the Provinces. Seaboard States for example with ports at their command while with one exception they have agreed to impose and collect the same customs duties as those imposed at British Indian ports are permitted to keep some of the proceeds for their own use but the duties collected at British Indian ports all of which of course are within Provincial borders are paid in full into the coffers of the Central Government. Some States too may issue their own postage stamps valid throughout India and retain the proceeds of their sale whereas in British India all postal revenue is a Central monopoly. No Province again may levy customs duties on its land frontier but some States can and do.

Such anomalies however are of relatively minor importance. The major fact has been the growing influence of modern conditions of life in breaking down the isolation of the States from one another and from the rest of India. It was artificially created and to a large extent it has been artificially maintained. But it was not till 1917-19 that the idea of India being governed otherwise than in two water-tight compartments was tentatively broached and it was not till 1930-35 that a real attempt was made to establish the political unity of India. Unfortunately the decisions then boldly taken were not implemented and the old chasm between British India and the States remains to stiffen and complicate the problem of today.



CHAPTER II

CONSTITUTIONAL DEVELOPMENTS IN BRITISH INDIA, 1833-1909

I. THE CHARTER ACT OF 1833

ENGLISHMEN who thought about India seem never to have supposed that its subjection to British rule, however long it might last, was a permanent dispensation. The ultimate enfranchisement of India was implicit in Burke's doctrine of trusteeship, since the guardian's duty ends when his ward comes of age, and the implication was put into words by more than one of the British officials in India who were giving effect to the 'trust' in the first half of the nineteenth century. Writing in India in 1818, Lord Hastings, who was responsible as Governor-General for a substantial extension of British rule, declared his belief that

a time not very remote will arrive when England will, on sound principles of policy, wish to relinquish the domination which she has gradually and unintentionally assumed over this country and from which she cannot at present recede.¹

Hastings' ablest lieutenant, Thomas Munro, perhaps because he was thinking as much of Indian welfare as of British 'policy', envisaged a longer period before Indians would be able 'to govern and protect themselves'. British rule must be maintained, he wrote in his often-quoted minute of 1824, till the people of India

shall in some future age have abandoned most of their superstitions and prejudices, and become sufficiently enlightened to frame a regular government for themselves, and to conduct and preserve it. Whenever such a time shall arrive, it will probably be best for both countries that the British control over India should be gradually withdrawn.²

A third prophet of India's emancipation was Henry Lawrence in 1844.

We cannot expect to hold India for ever. Let us so conduct ourselves as, when the connexion ceases, it may do so not with convulsions but with mutual esteem and affection, and that England may then have in India a noble ally, enlightened and brought into the scale of nations under her guidance and fostering care.³

All these were only personal opinions, but in the course of the same generation a self governing India was declared to be the ultimate objective

¹ *Private Journal of the Marquess of Hastings* (London, 1858), II, 326.

² R. Muir, *The Making of British India* (Manchester, 1923), 265.

³ *Essays* (London, 1859), 59-60, quoted by J. L. Morrison, *Lawrence of Lucknow* (London, 1931), 57.

of the British Government. When Macaulay made his famous speech in the House of Commons on the Charter Bill of 1833 he was speaking as Secretary of the Board of Control, and the speech was warmly praised by Charles Grant, who, as President of the Board, was in charge of the Bill on the Government's behalf.¹ And in it Macaulay expressed the hope that in course of time the people of India would become fitted for representative government—the kind of government which an Englishman and a Whig of those days was bound to consider the best in the world, the kind that seemed to be spreading irresistibly over Europe as it emancipated itself from the *ancien régime*. Farther than that Macaulay did not look, but he can scarcely have supposed that the growth of representative institutions in India could be permanently compatible with the maintenance of British rule.

Thus the ultimate goal of Indian self government, however dimly described, was not in doubt: it was the means of reaching it that were to baffle British statesmanship. The British habit of mind in politics has never been very speculative or original: it has clung to old and well tried principles, adapting them to meet the needs of changing times, and there was nothing in British experience to afford a precedent for governing India, 'a state', as Macaulay put it, which resembles no other in history and which forms by itself a separate class of political phenomena.

A few years later, as it happened, British statesmen were compelled to deal with the problem of self government in Canada. By contrast with the Indian problem it was relatively easy. 'It needs no change in the principles of government', wrote Durham in his great Report of 1839, 'no invention of a new constitutional theory to supply the remedy. It needs but to follow out consistently the principles of the British constitution' and he recommended accordingly that the Canadian colonies should proceed as Britain had proceeded from the first stage of representative government to the second stage of responsible government. The acceptance of Durham's advice after a few years' hesitation by the British Government and Parliament determined the future of Canada. From that point the gradual advance to the Dominion status of to-day has been almost automatic. But, of course, the Canadian situation was not comparable with the Indian. Most of the Canadians came of a people which had possessed a representative parliament for more than five hundred years, and if the French Canadian minority had only enjoyed representative institutions for one tenth of that time they also were the offspring of Western Europe and they had already shown themselves as capable of working those institutions as their English fellow citizens. But for the diverse races of India, which except in the small affairs of village life had had no comparable experience of self government, even the first stage in the British evolution of it, even representative government by itself, seemed in Macaulay's day impossible. In the Select Committee of the

¹ Macaulay, *Hansard*, xix (1833) 503-36, Grant, *ibid.*, 51-9.

House of Commons in 1832 James Mill, whose devotion to India was only equalled by his faith in 'pure democracy', was asked 'Do you consider, in the present state of society in India, anything approaching to representation as entirely out of the question?' 'I conceive wholly so,' he replied,¹ and Macaulay quoted that reply when he told the Commons that no alternative method of governing India was yet in sight than that of 'an enlightened and paternal despotism'

Thus, then is the state in which we are. We have to frame a good government for a country into which, by universal acknowledgement, we cannot introduce those institutions which all our habits—which all the reasonings of European philosophers—which all the history of our own part of the world would lead us to consider as the one great security for good government. We have to engraft on despotism those blessings which are the natural fruits of liberty. In these circumstances it behoves us to be cautious, even to the verge of timidity. The light of political science and of history is withdrawn—we are walking in darkness—we do not distinctly see whither we are going. It is the wisdom of man, so situated, to feel his way, and not to plant his foot till he is well assured that the ground before him is firm.

The Bill, accordingly, was a cautious measure. The Government of India was to be still a purely official government. Executive authority was vested in the Governor General and his Council of officials and in the Governors of the Presidencies and their similar Councils, legislative authority in the Governor-General in Council alone. At this time all the members of the Councils were British, and the only clause in the Bill which intimated that Indians might some day share in governing India was the clause enabling Indians to hold any office in the government, however high. A 'noble clause', Macaulay called it, and it is now generally admitted that the long-delayed and meagre application of it was a great mistake. None the less, the major problem was not who should constitute the civil service, but what should be the kind of government it was to serve, and as to that, Macaulay could do no more than declare his belief, or at least his hope,² that it might ultimately be possible for India, like Britain or like Canada, to be governed on British principles. To quote the well known peroration:

The destinies of our Indian empire are covered in thick darkness. It may be that the public mind of India may expand under our system till it has outgrown that system, that by good government we may educate our subjects into a capacity for better government, that, having become instructed in European knowledge, they may in some future age demand European institutions. Whether such a day will ever come I know not. But never will I attempt to avert or to retard it. Whenever it comes, it will be the proudest day in English history.

II. THE LEGISLATIVE COUNCILS

The first constitutional advance from the position of 1833 was due to the shock occasioned by the Indian Mutiny. The disappearance of the

¹ Evidence of the Committee, Public and Miscellaneous, Q 364 (India Office)

East India Company and the assumption of direct control over British rule in India by a Secretary of State and Parliament under the Act of 1858 were not the only result of that catastrophe. It had taken the Government of India by surprise and limited though it was in its scope it had revealed the gap of ignorance and misunderstanding that yawned between the British rulers however benevolent their intentions and their Indian subjects. It was clearly dangerous to continue as Sir Bartle Frere put it to legislate for millions of people with few means of knowing except by a rebellion whether the laws suit them or not.¹ An attempt was made, therefore, by the Indian Councils Act of 1861 to establish closer contact between government and the governed. The Act provided for the enlargement of the Governor General's Executive Council to form a Legislative Council reconstituted and likewise enlarged the Legislative Councils in Madras and Bombay and provided for the creation of similar Councils in Bengal the North Western Provinces and the Punjab and it prescribed that at least half the new or additional members should in each case be chosen from outside the ranks of the civil service. Since most of the non-official members thus chosen were Indians the Act of 1861 may be said to have introduced the representative principle into the Indian constitution. But it was by no means a concession of the representative government which Macaulay had so firmly ruled out a generation earlier. The majority in the Councils were still officials and the small groups of non-official members were nominated by the Governors not elected. Their powers moreover were purely legislative. They could not even ask questions about still less discuss executive business. The conduct of administration including all matters of finance remained in the exclusive control of the wholly official Executive Councils.

This of course was not representative government as practised in England or the Colonies for there had never been such limitations on the functions of the House of Commons or the colonial Representative Assemblies the discussion of taxation in particular had been the main reason for their existence. Sir Charles Wood the Secretary of State who introduced the Bill was right to tell the House of Commons that the Governor General's new Council—and the same applied to the Provincial Councils—was not intended to be a representative law making body in the normal sense of the words. You cannot possibly, he said assemble at any one place in India persons who shall be the real representatives of the various classes of the Native population of that empire. The new move indeed was more in accordance with Indian tradition than with British. Frere likened the functions of the Councils to those of the *darbar* of a native Prince the channel from which the ruler learns how his measures are likely to affect his subjects and may hear of discontent before it becomes disaffection.²

¹ Montagu-Chelmsford Report 1918 [Cmd 9109] § 60

² Hansard clx i (1861) 641

³ M C Report § 60

It is worth recalling that the first edition of John Stuart Mill's *Considerations on Representative Government*, the classic of nineteenth-century liberalism, was published in 1861, and in it James Mill's repudiation of representative institutions in India in 1832 was echoed by his more famous son. John Stuart Mill took it for granted that India was not one of 'the dependencies whose population is in a sufficiently advanced state to be fitted for representative government', such as the British colonies in North America or Australia. Britain, therefore, must do her best to fulfil 'the highest moral trust which can devolve upon a nation' and give India a 'more stable and more enlightened rule than she could get from any native despotism'. 'It is always under great difficulties, and very imperfectly, that a country can be governed by foreigners', and Britain would only succeed in her task in India

through far wider political conceptions than merely English or European practice can supply and through a much more profound study of Indian experience and of the conditions of Indian government than either English politicians or those who supply the English public with opinions have hitherto shown any willingness to undertake.¹

A few years later an effort was made to apply this doctrine in the reorganisation of local government, initiated by Lord Mayo in 1873 and extended by Lord Ripon in 1883. Ripon, whose political affiliations were Macaulay's, Mill's and Gladstone's, defined his reforms as 'a measure of political and popular education', but at the same time he emphasised the need for making use of 'indigenous institutions' as far as possible, and emphatically denied that he was 'trying to impose our English system on India'. But there were virtually no local institutions of a popular kind in India except where a simple form of village self-government by small committees, known as *panchayats*, had survived the centralising tendencies of British administrative efficiency. While, therefore, the *panchayats* were maintained as far as possible, the new and wider organs of local government, for which there was no 'indigenous' model, were almost inevitably constructed on British lines. That meant another and a fuller application of the representative principle. Members of the new Municipal Councils and Rural District Boards—in some cases a majority of them—were directly elected²

Meantime the political complexion of India was rapidly changing. The effects of British rule in unifying India were now making themselves felt. It was not only that all India owed allegiance to one sovereign and that two-thirds of it had been brought under a single frame of government. The introduction of a modern system of communications—railways, the telegraph, cheap postage and better roads—had made it infinitely easier for Indians throughout their vast country to travel and correspond

¹ 1894 edition (New Universal Library), 319-20, 322, 337.

² *Cambridge History of the British Empire*, vol. v, chap. xxxiii. L. Wolf, *Life of Ripon* (London, 1921), II, 100.

and meet than it had ever been before and the use of one language English as the vehicle of higher education had similarly made it easier for the educated to know and understand each other. The reaction of these changes on the millions of illiterate peasantry who then as now constituted the vast majority of the population was only economic but among a growing minority of educated town bred Indians they fostered a new consciousness of Indian unity of something that despite all the differences between India and the western world might almost be called Indian nationhood. Since they had studied the classics of English literature and keenly followed in books and newspapers the course of politics in Europe of which the rise of nationalism was the outstanding feature, this new Indian attitude of mind was bound to have its political side and the history of Indian nationalism may be said to have formally begun when in 1885 seventy two Indians from most parts of India assembled at Bombay to attend the first session of the Indian National Congress.

The first speaker on the first resolution Mr Subramania Aiyar of Madras after declaring that by a merciful dispensation of Providence Britain had rescued India from centuries of external aggression and internal strife summed up the benefits of British rule in one remarkable fact that for the first time in the history of the Indian populations there is to be beheld the phenomenon of national unity among them, of a sense of national existence. Indian nationalism in truth was the child of the British Raj and the British authorities blessed its cradle. Though it was decided that officials should not preside or participate except as friendly observers at the meetings Lord Dufferin the Viceroy of the day regarded the new body as a desirable and useful means of expressing Indian public opinion in other words a new sort of *darbar*. But these first Congressmen were more interested in British than in Indian forms of government. Indirectly this conference said the prospectus issued before it met will form the germ of a Native Parliament and if properly conducted will constitute in a few years an unanswerable reply to the assertion that India is still wholly unfit for any form of representative institutions. A resolution at the first session declared a considerable portion of elected members to be essential not only in the Provincial Legislative Councils but also in the Governor Generals and at the second session held in 1886 at Calcutta it was resolved that the elected members ought to constitute at least one-half of the Councils. Another resolution asserted that all financial questions including all budgets should be submitted to and dealt with by the Councils and that their members should be entitled to ask questions on all matters of administration within the limits of public safety. Thus Macaulay's vision seemed to be taking shape. European knowledge had created a demand for European institutions.

¹ Sir Verney Lovett *History of the Indian Nationalist Movement* (2nd ed. London 1900) p. 36

² *Ibid.* 30

³ D. Chakrabarty and C. Bhattacharyya *Congress in Evolution* (Calcutta 1935) 2-3

There was no trace of anti-British feeling in these early sessions of the Congress, and the next constitutional advance, the Councils Act of 1892, showed that the Government of India was by no means out of sympathy with its aspirations. The Act enlarged the Provincial Councils and empowered them, though not the Governor-General's Council, to discuss the budget and raise administrative questions, though not to vote on them. Lord Dufferin, the Viceroy, moreover, was prepared to concede at least a measure of election. He proposed that, while some of the non-official members should still be nominated, others should be elected. But Lord Cross, the Secretary of State in Lord Salisbury's second Government, refused to sanction 'a fundamental change of this description without much more positive evidence in its favour than was forthcoming'.¹ The upshot was a compromise. A few of the non-official seats were still to be filled by simple nomination, but for a majority of them 'recommendations' were to be made by local bodies or corporations—religious communities, municipalities, universities, chambers of commerce and the like. In the event this half-hearted evasion of the elective principle came to nothing. Since the 'recommended' candidates were in practice accepted as a matter of course, the process became virtually election. Yet it was still something different from election as practised in Britain. With the single exception of the university representatives the members of the House of Commons are chosen by general or territorial constituencies in which all groups and sections of the population are comprised. But Indian society, to quote a dispatch from the Government of India in 1892, was 'essentially a congeries of widely separated classes, races and communities with divergences of interest and hereditary sentiment', which could be properly represented only by those who knew and shared their sectional opinions.²

Seventeen years later a much longer step was taken. In 1909 Indian nationalism was very different from what it had been in 1885 and 1892. Many of its exponents were now 'extremists', denouncing the British flag, and all its works and organising what was known as 'Indian Unrest'. The movement was most active in Bombay and Bengal, and its ugliest aspect was the assassination of officials, Indian as well as British. It was a grave but not a dangerous situation, for politics were still the monopoly of the small educated class, and the great mass of ignorant villagers, busy with their hard task of wresting a livelihood from the soil, knew and cared nothing about representative government or Indian nationhood. Nevertheless Lord Minto, Viceroy from 1905 to 1910, decided that, while 'extremism' should be firmly repressed, a further and a substantial concession should be made to the more moderate nationalists of whom the leader at this time was Mr. Gokhale. Minto was met half-way by the Secretary of State during the same five years, John Morley, yet another disciple of John Stuart Mill and Gladstone's chief lieutenant in the campaign for Home Rule in Ireland. The outcome was the 'Morley-Minto Reforms' of 1909

¹ M.-C. Report, § 69.

² Cmd. 4126, 1908, p. 2.

By the Indian Councils Act of that year the principle of election at the Centre (to use a brief term for the Governor General's Legislative Council) as well as in the Provinces was now recognised and legislated but the constituencies were still to be communities and groups of various kinds and not general constituencies of the normal democratic type. A small official majority was retained at the Centre but in all the Provinces the officials were outnumbered by the nominated plus elected members and in Bengal the elected members had a clear majority.¹ A little later an important move was also made in the executive field. The possibility of Indians holding the highest offices in the administration foreshadowed in Macaulay's noble clause was realised at last by the appointment of an Indian not only to each Provincial Executive Council but to the Governor General's also—in the latter case the Indian was Mr Satyendra Sinha an eminent lawyer from Bengal—and two Indians were also given seats on the Secretary of State's Council at the India Office.

III THE REINFORCEMENT OF PARLIAMENTARY GOVERNMENT

The Act of 1909 brought the constitutional advance begun by the Act of 1861 to the threshold of representative government and in Bengal in so far as the elected members of the Council might have voted together and so controlled the legislature the threshold had in principle been crossed. Yet the idea that this development was compatible with what had happened in England or the Colonies was firmly rejected at each of its stages by all the British statesmen and officials concerned. The Legislative Councils were still regarded as *durbars* rather than as parliaments, and in 1909 no less than in 1892 both the authors of the measures of advance and their critics Liberals as well as Conservatives declared as categorical as Macaulay in 1833 that India was not qualified for a parliamentary system. Thus in the masterly dispatch which preceded the legislation of 1892 Lord Dufferin was careful to explain that the reform of the Councils though it involved the liberalisation of their general character as political institutions must not be interpreted as an approach to English parliamentary government and an English constitution. Such a conclusion he wrote would be very wide of the mark and it would be wrong to leave either the India Office or the Indian public under so erroneous an impression. Similar warnings were given to Parliament by the leaders of both parties. Lord Salisbury then Prime Minister pointed out that elective or representative government was not an Eastern idea; that its introduction into India would be the gravest possible parting of the ways, that it only works well when all those who are represented desire much the same thing, and that it puts an intolerable strain on a society

¹ This elected majority was perhaps more nominal than real since four of the elected members were British representatives of the British resident community who could be expected to support the Government on any crucial question.

² M. C. Report § 68.

divided into hostile sections.¹ Lord Kimberley, who, like Lord Salisbury, had been Secretary of State for India and was to return to that office later on, was still more emphatic. 'The notion', he said, 'of parliamentary representation of so vast a country, almost as large as Europe, containing so large a number of different races, is one of the wildest imaginations that ever entered the minds of men.'² It was the same in 1908-9. Lord Curzon's chief criticism of the new Councils was that they would inevitably become 'parliamentary bodies in miniature'.³ Mr. A. J. Balfour went deeper

We all admit [he said] that representative government, government by debate, is the best form of government when it is suitable, but it is only suitable . . . when you are dealing with a population in the main homogeneous, in the main equal in every substantial and essential sense, in a community where the minority are prepared to accept the decisions of the majority, where they are all alike in the traditions in which they are brought up, in their general outlook upon the world and in their broad view of national aspirations.⁴

Morley did not contest these arguments, and his conclusion was the same. 'If it could be said', he told the House of Lords, 'that this chapter of reforms led directly or necessarily to the establishment of a parliamentary system in India, I for one would have nothing at all to do with it.'⁵

Morley's negative attitude was challenged by 'impatient idealists', as he called them, on his own left wing who expected a more robust belief in the universal value of British institutions from the political descendant of Macaulay, the student and exponent of liberalism in Europe, the champion of a parliament at Dublin. He met such criticism with the repeated assertion of the fact that circumstances alter cases. There could be no analogy, he said, between Ireland and India or between Canada and India. He denied the idea that 'whatever is good in the way of self-government for Canada must be good for India' as a 'gross and dangerous sophism'. It was like arguing, he said, that, because a fur coat is needed in the Canadian winter, it is needed in the Deccan.⁶ He was equally frank in his friendly talks with Mr. Gokhale at the India Office.

He made no secret [he reported to the Viceroy] of his ultimate hope and design—India to be on the footing of a self-governing colony. I equally made no secret of my conviction that for many a day to come—long beyond the short span of time that may be left to us—this was a mere dream.⁷

Another letter to Minto reveals that Morley's attitude was not wholly negative

Not one whit more than you do I think it desirable or possible, or even conceivable, to adapt English political institutions to the nations who inhabit

¹ *Hansard*, cccxlii (1890), 98-9.

² *Ibid.*, 93.

³ *Ibid.*, iii (1909), 553. Compare Syed Ahmad's speech in 1883 (Appendix II, p. 155, below).

⁴ *Ibid.*, 35-6.

⁵ *Ibid.*, H. of L., (1909), 136.

⁶ *Indian Speeches*, 91.

⁷ *Recollections* (London, 1917), ii, 181.

India Assuredly not in your day or mine But the *spirit* of English institutions is a different thing, and it is a thing that we cannot escape even if we wished — because British constituencies are the masters, and they will assuredly insist—all parties alike—on the spirit of their own political system being applied to India ¹

But Morley left the problem there He made no positive suggestion as to how in fact the spirit of British institutions could be separated from their form and animate an autocratic government

¹ *Ibid* , 172-3

CHAPTER III

HINDU MOSLEM ANTAGONISM

THE reason for the persistent refusal of British statesmen to contemplate the development of parliamentary government in India was frequently and plainly stated. It was the familiar fact that India was inhabited by a number of different races and divided by conflicting creeds and ways of life. There were other obstacles to the growth of a democratic system—the backwardness and ignorance of the vast majority of the population and the social barriers of the Hindu caste system. But these obstacles by themselves would not have seemed insuperable. The political enfranchisement of the British people had not awaited, it had preceded, the spread of popular education, and the Brahmin aristocracy of India, though it had nothing else in common with the landed aristocracy of Britain, might be expected in the long run to suffer the same fate. Nor were the differences of race, the diverse character and traditions of Bengalis, Madrasis, Marathas, Punjabis and so forth, the major difficulty. Britain had once been the battleground of nationalities whose differences were rooted in their diverse racial origin, but Englishmen, Scotsmen and Welshmen had long learned, without any sacrifice of their 'national' individuality, to live together in a closely united democratic state. The major difficulty was the conflict of religions, in particular the clash of Hinduism with Islam, and for that the only precedent in Britain was the relatively short-lived schism caused by the Reformation in the national life of England and Scotland.

There is, however, a closer precedent in Ireland. Here also the analogy could easily be pressed too far, but the old-standing quarrel between Catholics and Protestants in Ulster has certain similar features with the Hindu-Moslem quarrel in India. The Protestants are a minority in Ireland as a whole, numbering rather less than one-quarter of the population. Though centuries of life in Ireland have made them Irishmen, the Protestants were originally immigrants from abroad and representatives of a conquering people who established their ascendancy over all Ireland. While again the educated members of the two communities live on friendly terms, they are unable to prevent, however much they may deplore, occasional outbreaks of violent hate and strife among the mass of the people. Such outbreaks have been specially liable to occur on the occasion of celebrations or commemorations in either camp, and particularly on the anniversary of the Battle of the Boyne, which confirmed the Protestant ascendancy over Ireland. There were serious riots, involving loss of life

and property in 1857 1864 and 1872 but a new edge was given to the quarrel by the growth of Irish nationalism. In 1886 for nearly four months furious rioting and fighting broke out at intervals in the streets of Belfast. Over thirty people were killed and many more injured. More than once the police had to fire on the crowd. What had inflamed the old feud to this degree was undoubtedly the coming into power of a Liberal Government at Westminster which seemed to portend an attempt to put all Ireland under a dominantly Catholic parliament at Dublin.¹ Further outbreaks occurred in 1898 1907 1912 and 1914 and there were many minor disturbances. In 1920 came the worst riots of the whole sorry series. Between July 22 and September 1 over forty people were killed many more were injured and there was much arson and destruction. This time the political complexion of the conflict was unmistakable. It was a direct reflection of the civil war in the South.

In scale of course there can be no comparison between the Irish and the Indian situation. There are less than 1 million Protestants in Ireland and more than 80 million Moslems in India. Nor is the gulf between Protestant and Catholic Irish Christians so deep as between Indian Moslems and Hindus nor does religion permeate the daily life of Irishmen as it permeates that of Indians. But on several points the Irish precedent is significant and especially on the most grievous point the passion of the mob. The record of Hindu Moslem rioting in India is long and tragic. The earliest serious case in British records is the outbreak at Benares in 1809 in which the deliberate insult inflicted on that sacred Hindu city by the erection of a mosque on its most sacred site by the Mogul Emperor Aurungzeb a century before was at last avenged by the Hindus. Several hundred people were killed and some fifty mosques destroyed. Happily that tragedy is unique and indeed for over seventy years though there were minor disorders from time to time there appear to have been no serious outbreaks except in 1811 and 1812. But there was violent rioting at Lahore and Karnal in 1880 at Delhi in 1886 at Dera Ghazi Khan in 1889 at Palakod in 1891 and in a large area in the United Provinces and in the city of Bombay when eighty persons were killed in 1893. The chief reason for this persistent trouble between 1880 and 1893 was undoubtedly the fact that during the first four years of the period the Moslem festival of the Muharrum coincided with the Hindu Dishti festival but it may perhaps be more than a coincidence that the National Congress was founded in 1885 and established its place on the public stage in the course of the next few years. Another disturbed and anxious period ran from 1907 to 1914—a period marked by the discussion enactment and operation of the Moslem Vinto Reforms.²

The immediate occasions though not the deeper causes of these out

Peep of the Belfast Poles Commission (1887)

² For the facts in this paragraph see the note on Communal Disorders in *Indian Statutory Commission* iv 967

breaks have usually been clashes or disputes connected with the observance of religious ceremonial. Tension due to other reasons may be heightened, for example, at the time of the annual Moslem festival of Baqr' Id, which is peculiarly provocative to Hindu sentiment, since it requires the sacrifice of animals, and among the victims is generally a cow, which is an object of religious veneration to Hindus. Another common cause of trouble is the carrying of the *taziyahs*, bamboo and paper structures representing the mausoleum on the plains of Karbala, to the local burying-place at the Muharram festival. For, if a *pipal* tree, sacred to Hindus, is growing beside the road, its branches may be touched by the *taziyahs*; and the branches must not be lopped, nor may the *taziyahs* be lowered as if in obeisance to the tree. Every effort is made by the local officials to arrange a compromise, but not always with success, especially if political agencies in the background are working not to prevent but to provoke an outbreak. The other commemorations, whether Moslem or Hindu, exhibit no mutually provocative features; but, since their dates are calculated from different calendars, they occasionally coincide, and, apart from the fact that one may chance to be a feast of rejoicing and the other an occasion of public mourning, such coincidences are bound to be dangerous. 'Rival processions are abroad in the streets; vast crowds collect; religious emotion, sometimes sensitive, sometimes provocative, is deeply stirred, the atmosphere is highly charged and the general excitement seeks an outlet.'

A more constant irritant is provided by the traditional practice of processional music. Not only at festivals, but at every Hindu marriage, there must be a procession with a band, and, if it passes a mosque, where music is strictly forbidden, especially at one of the daily periods of prayer, Moslem feeling is quickly inflamed. For Government to forbid such music would be regarded by Hindus as an intolerable violation of their rights, and at times of tension, therefore, British officials must do their utmost, to obtain agreement between communal representatives as to the route a procession should take and the points at which the music should be stopped or muted. But the mood of the disputants has often been provocative rather than conciliatory, and whether by music or by other means it is tragically easy to provoke a riot in the poorer quarters of an Indian town.

Riots, however, are only a symptom. What are the basic causes of the feud? It is not a conflict of race. In the North-West, it is true, many Indian Moslems are descended from the Arabs, Afghans and Turks who invaded India centuries ago, but elsewhere the vast majority are of native Indian origin, the progeny of those Indians who were converted to their conquerors' faith. There is, however, a certain physical difference. Since the Moslem domination began earlier and lasted longer in the North and never extended southwards much beyond the River Kaveri, the mass of the

Moslems are northerners. Eighty per cent of them are in the Punjab, Sind, the United Provinces and Bengal; there are only $4\frac{1}{2}$ millions in Bombay and $3\frac{1}{2}$ millions in Madras. Physically therefore the average Indian Moslem is more of the northern type than the average Hindu. But the main distinction is not physical, but cultural. It is the outcome of two sharply contrasted religions and of the social systems, the ways of life and thought they have inspired. Hinduism has its primal roots in a land of rivers and forests; Islam in the desert. Hindus worship many Gods, Moslems only one; the temple with its luxuriance of sculptured effigies, confronts the mosque declaring by its bare simplicity that idolatry is sin. Hinduism maintains a rigid caste system; Islam proclaims the equal brotherhood of all believers. The classical language of Hindus is Sanskrit; of Moslems Arabic and Persian; the distinctive daily speech of the one is the Hindi; of the other the Urdu variant of Hindustani. The contrast lends itself to a wealth of illustration; but perhaps its most striking feature is the fact that though Hindus and Moslems live side by side all over India, often in the same small village, and though happily in normal times they are good enough neighbours, yet the natural ties of kinship are completely lacking, since both the Koran and the Hindu laws of caste prohibit intermarriage, nor may an orthodox Hindu share his table with a Moslem. It would be easy, no doubt, to overdraw the contrast in ways of life. India has imposed a certain community of living on all her children, and a stranger to the country, seeing Hindus and Moslems together in society or professional life, at work or at play, might find it difficult to distinguish them. Yet under the surface the gulf remains. The present President of the Central Assembly, Sir Abdur Rahim, once complained that whereas Indian Moslems felt quite at home in the Moslem countries of Asia, in India we find ourselves in all social matters total aliens; when we cross the street and enter that part of the town where our Hindu fellow townsmen live.

History has intensified the sense of difference for the Moslems remember that they were once the conquering and ruling people and the Hindus their subjects, paying the jizya or tax exacted from all non Moslems. There had been great chapters in the annals of India long before the rise of Islam, but in Moslem eyes the glories of the Maurya or the Gupta Empire had been eclipsed by that of the Moguls. Never had India been so powerful, and prosperous, so well governed, or so famous throughout the world, as in the days of Akbar. While moreover Hinduism was confined to the land of its origin, Islam stretched far beyond the bounds of India across the Middle East to the Mediterranean and along its southern shore to the Atlantic; and Moslem civilisation in India had been enriched by scholars and artists coming to the Mogul court from other quarters of the Moslem world, and by the cultural traditions of Cairo and Baghdad and Granada.

The splendour of that age seemed all the brighter by contrast with the

* Quoted by Sir T. Morrison in *Political India* (London, 1937) 104.

* The tolerant Akbar abolished this tax, but it was revived by the intolerant Aurangzeb.

long period of decline and decay that followed it. The decline was both economic and political. Once the Moslems had been lords of the land in every sense, but with the coming of the rule of law they began to lose their grasp of it. The big estates were thinned away by extravagance and litigation, and the small man was increasingly enmeshed and dispossessed of his holding by the moneylender who, since usury is banned by the Koran, was more often than not a Hindu. In all the new economic developments of the later nineteenth century, moreover, the more conservative and less educated Moslems were no match for the keen, purposeful, better organised Hindus. Still more marked was the change in the political status of the Moslems. With the collapse of the Mogul Empire and the advent of British rule they ceased to be the governing class. The ranks of the Indian army, it is true, were increasingly filled with Moslems. The north-west corner of India was the chief centre of the Moslem population, and the Moslems, therefore, with the Sikhs, regarded themselves as the warders of India's one dangerous frontier. But all military command was now in British hands. It was the same with all the important posts in the civil administration of British India. Even in the lower ranks of public service, moreover, the Moslems soon found themselves edged out by the Hindus. Their first setback was the dropping of Persian as the official language, the next was the Mutiny, which was wrongly supposed at the time to have been mainly due to Moslem instigation, the third was the growth of higher education, the opportunities and professional rewards of which were eagerly seized by the Hindus but rejected by the Moslems, who clung to the old orthodox tradition of religious education and turned their backs on the impious new learning of the 'Franks'. Thus the Moslems failed to share in the intellectual renaissance which the acquisition of the English language, and of the knowledge of Western science and thought which it conveyed, was bringing about in Hindu India.

It was the connexion between education and government that forced the Moslems to bestir themselves. When Hindu clerks were promoted to posts in which they could give orders, when even policemen were chosen because they were good at their books, it was clearly wise for Moslems to reconsider their attitude to the new education. That was the doctrine preached by the greatest Indian Moslem of the time, Sir Syed Ahmad Khan. Defying orthodox hostility, he declared that modern learning was neither forbidden by the Koran nor dangerous to the faith it taught, and by the courage of his convictions and the strength of his personality he gradually obtained an unrivalled hold on Moslem opinion throughout India. The climax of his work was reached at the foundation in 1877 of a Moslem college, now a university, at Aligarh. That marked the turning of the tide, the end of the decline and the beginning of a recovery. But the Moslems have still to make up for lost time. The level of education in their community is not yet as high as the Hindu level, and it is significant that, since the introduction of competitive examinations held in India for

entrance to the higher civil services a number of places have always been reserved for nomination in order to maintain a sufficient proportion of Moslems and other minority communities in the official corps

It was this relative backwardness in education, coupled with the knowledge that they were only about one quarter of the Indian population as a whole that accounted for the indifference, if not antagonism, with which most Moslems watched the growth of the Indian nationalist movement. Nationalism feeds on memories, but the memories of Moslems were more concerned with Islam than with India; they did not share their Hindu fellow countrymen's pride in a record of civilisation stretching far into the past and not among Moslems only the birth of a new political self-consciousness tended to revive and strengthen the old communal loyalties as much as to inspire a new devotion to India as the motherland of them all. Political agitation moreover was concentrated as has been seen on the demand for representative government of the British kind and that as Sir Syed Ahmad warned his fellow Moslems meant majority rule with the Hindus in the greater part of India always in power and the Moslems never. It is not surprising therefore that the Congress despite its national title and appeal proved to be a predominantly Hindu body. Of the seventy-two delegates who came to the first session only two were Moslems. At the second session held in the North there were only thirty-three Moslems out of 440. The Moslem fraction presently increased there were 156 Moslems out of 702 in 1890 but the constitutional advance of 1892 despite its author's denial that it led towards a parliamentary system revived Moslem anxieties and though Indian Moslems in India are at least as free spirited and militant as Hindus it is significant that the violent extremism of the first decade of the twentieth century was exclusively a Hindu movement. On the other hand the growing influence of the Congress and the attention paid to it by Government were a lesson Moslems could not miss. Once more it seemed they were in danger of being left behind. The knowledge that a new instalment of Reforms was under consideration spurred them to action and since most of their leaders were unwilling to make common cause with the Congress a separate political organisation for Indian Moslems was created—the All India Moslem League. Its first conference was held in December, 1906.

The Moslem leaders were faced by the fact that since the Act of 1892 not only the principle of representation but also in practice the principle of election had been established in the constitution of the Provincial legislatures and they realised that the forthcoming advance was likely to

¹ In a dispatch of October 1 1906 Lord Minto's Government after referring to the statement of its predecessor in 1892 quoted on p. 24 above remarked: 'The advance in general education that has taken place since 1872 has added to the complexity of the problem by bringing to the front classes which were then backward and by making them more keenly conscious of their individual interests and more disposed to claim separate representation by means of special electorates.' Cmd 4176 1908.

confirm and extend the elective principle. To meet that situation they had two clear points of policy. First, in all elections, whether for the Legislative Councils or for local bodies, the Moslems must be separately represented and their representatives separately elected by purely Moslem electors. Second, the extent of the Moslem community's representation must be 'commensurate not merely with their numerical strength, but also with their political importance and the value of the contribution which they make to the defence of the Empire.'¹ These were the main points of the Moslem case which was submitted to Lord Minto, shortly before the first meeting of the League, by a Moslem deputation, headed by its president, the Aga Khan. The Viceroy's response was wholly sympathetic. He did not commit himself to any particular method of election, but 'I am as firmly convinced', he said, 'as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing the population of this continent'.² The Secretary of State concurred; he tentatively suggested a scheme for a joint electoral college, but he did not press it, and in due course the Moslems found their two demands conceded in the Act of 1909 and the regulations made under it. The Moslems were given what was later to be known as 'weightage', i.e. more seats than they were entitled to by numbers only, and, while voting also in 'general' constituencies side by side with Hindus, they were to vote for their own members in separate and wholly Moslem constituencies. That their anxieties were not wholly allayed, however, was shown by their objection to the appointment to the Viceroy's Executive Council of a single Indian, who was naturally a Hindu. But on this point their protests were overruled. The issue did not arise on the appointment of Indians to the Secretary of State's Council, since there were two of them and one was a Moslem.

The creation of communal electorates was a flagrant breach of democratic principle, as Morley was well aware, but there was force in the argument stressed by the Moslem leaders that, in the present state of Indian feeling, to make Moslem seats dependent on Hindu votes, so far from tending to make both communities conscious of a common citizenship, would embitter the existing antagonism and convert every election into a dangerous battleground. Nor, as they pointed out, would the mere 'reservation' of seats for Moslems secure their faithful representation unless only Moslems voted for them, since the Hindu votes would go to the candidate who identified himself least wholeheartedly with the interests of his own community. It was a strong case, and the weight of Moslem opinion behind it could not be ignored. Nor, after all, was Morley doing violence to his democratic conscience. His ideas of Indian government, as has been seen, had nothing to do with democracy.

¹ Moslem Deputation to Lord Minto, October 1906. *Indian Statutory Commission*, iv, 130-1.

² *Ibid.*, iv, 132.

The attitude of the Hindu nationalists—and there were some though not at this time many Moslems who supported the Congress—was naturally quite different. At the session of 1910 the Congress while recognising the necessity of providing a fair and adequate representation in the Legislative Councils for the Muhammadan and other communities where they are in a minority condemned the method of separate electorates and demanded the removal of anomalous restrictions between different sections of His Majesty's subjects in the matter of the franchise.¹ It would be illogical to criticise this attitude. The Hindus after all were the great majority—at least two thirds—of the Indian people and their traditions went back to the dawn of Indian history. If India were to be governed by counting votes they could scarcely be expected to surrender the rights their numbers gave them. More questionable was the growing tendency to minimise the gravity of Hindu Moslem schism and to assert that it was largely due to British rule and would cease to be a serious matter if India were allowed to govern herself. It was often pointed out that Hindu Moslem disorders rarely if ever occurred in the Indian States and the British Government was even charged with deliberately trying to maintain and deepen the feud on the principle of *divide et impera*. (This quarrel is not old said Mr Gandhi at the Round Table Conference in 1931. I dare to say it is coeval with the British advent.)² He could scarcely have intended those words to bear their full meaning but there was half a truth in them. For the open exhibition of the quarrel the throwing off of all restraint, the roving and fighting—none of this was possible under Mogul rule. Akbar set Hindus on a formal equality with Moslems but the Hindus would no more have dared in his day than in Aurungzeb's to assert their communal rights or in any way to challenge or provoke the feelings of their rulers. For several reasons the position has been very different under British rule. The Government to begin with, has been neither Hindu nor Moslem the expression of communal loyalty therefore has not been in itself a defiance of authority but only when it has led to a breach of the peace. The British rule of law more over, coupled with a policy of freedom for all creeds has given the communities a sense of security and self confidence which no Indian autocracy could give them. Finally it is the gradual introduction of the British form of self government—and this is what differentiates British India most markedly from the Indian States—that has steadily intensified the conflict, for once majority rule was in sight it became a struggle for power. And since this conflict has been the cause of British hesitation in the past to advance India along the road to freedom and since it is the cause of the present halt when the goal is almost within reach it is also the cause of the continuance of British rule. But Britain did not light the fire nor has she been doing the devil's work of stoking it. Mr Muhammad

¹ Congress in Evolution 118

Ali, who with his brother led the Caliphate Movement in 1921, was no friend or apologist of British rule in India, but the judgment he passed on the Hindu-Moslem schism at the Round Table Conference was less misleading than Mr Gandhi's 'It is the old maxim of "divide and rule",' he said 'But there is a division of labour here. We divide and you rule'¹

¹ *Indian Round Table Conference, First Session (1930-1), 102* In her *India, Minto and Morley* (London, 1934, p. 47) Lady Minto quotes a letter she received from an official describing the Viceroy's response to the Moslem deputation (p. 34, above) as 'nothing less than the pulling back of sixty-two millions of people from joining the ranks of the seditious opposition. It may well be true that many Moslems, if their claim for separate electorates had been rejected, might have joined the Hindu extremists in attacking the Government but there is no evidence to suggest that the deputation was in any sense engineered. It was actually organised by the well-known Moslem leader, Nawab Mahsin-ul-Mulk, shortly before he died. Nor was the Moslem opposition to an unqualified representative system on the British model a novelty in 1908. As early as 1883, Syed Ahmad, speaking on Lord Ripon's introduction of elections to local bodies, declared that 'election pure and simple was quite unsuited to diversified India where the rigour of religious institutions has kept even neighbours apart. (An extract from his speech will be found in Appendix II, p. 154 below.)

CHAPTER IV

THE COLONIAL MODEL

MR GOKHALE can never have imagined that Hindu Moslem antagonism came to India with British rule and would disappear on its departure, and he was well aware that none of the British Colonies suffered from so deep a schism of society. Nevertheless he continued to urge that the constitutional development of India should follow the colonial model. 'The goal of the Congress he declared in his presidential address at the Session of 1905, is that India should be governed in the interests of the Indians themselves and that in course of time a form of government should be attained in this country similar to what exists in the self governing Colonies of the British Empire' ¹ 'This Congress is of opinion, ran a resolution of the Session of 1906, that the system of government obtaining in the self governing British Colonies should be extended to India' ² In 1908 the Congress adopted a new constitution, the first article of which— an article to which every member of the Congress had to subscribe—was as follows

The objects of the Indian National Congress are the attainment by the people of India of a system of government similar to that enjoyed by the self-governing members of the British Empire and a participation by them in the rights and responsibilities of the Empire on equal terms with those members. These objects are to be achieved by constitutional means by bringing about a steady reform of the existing system of administration and by promoting national unity, fostering public spirit and developing and organising the intellectual, moral, economic and industrial resources of the country ³

At the same Session the Morley Minto scheme was declared to have been welcomed throughout India with deep and general satisfaction ⁴ Clearly, then Indian nationalists did not share Morley's opinion that the advance made in 1909 was not in the direction of a parliamentary system, since in every self governing British Colony precisely that system had been established. The event has proved them right and Morley wrong. subsequent advances have brought them nearer and nearer to their goal. It may help therefore to clarify the story if a brief account be given at this point of the nature and growth of British colonial self government

It has been a faithful reproduction of English self government. It developed far more quickly than its prototype because the track had already been laid down and tested by experience, but, except in so far

¹ *Speeches* (2nd ed., Madras, 1916), 829
² *Ibid.*, 208

³ *Congress in Evolution* 11
⁴ *Ibid.*, 11 12

as the size and character of the Canadian and Australian groups of colonies led to the adoption of federal instead of unitary forms of government, the track was the same and progress along it was achieved by the same stages. In England the process began with the beginning of representative government when Parliament was first summoned in the thirteenth century. For four centuries, though sovereigns were often 'responsive' to Parliament's wishes, the executive government was still controlled not by Parliament but by the sovereign, and it was not till after the Civil War and the Revolution of 1688 that the principle of responsible government was gradually established, namely that the executive ministers must be held responsible not to the Crown but to Parliament, more especially the House of Commons, and through it to the electorate. In the course of the next two centuries this principle was more and more fully affirmed in practice till the government of the United Kingdom became the complete parliamentary or cabinet government of to-day. Though this development has been logical and consistent in itself, it has not been directed by any preconceived theoretical design nor embodied in any coherent series of written laws, it has been mainly a process of adapting customs and conventions to the growth of political capacity and experience, a long slow advance 'from precedent to precedent'.

In the Colonies the first stage of this process was attained almost at once and almost automatically. The first English settlers in America had carried with them overseas the Englishman's traditional right to a voice in framing the laws he lived under, especially those which taxed him, and representative government by means of elected assemblies on the pattern of the House of Commons was soon established. But at that first stage the process halted as it had halted so long in England. The colonial executive remained responsible not to the colonial legislature but to the Government and Parliament at Westminster. Therein lay the chief cause of the last of the English civil wars, the war of the American Revolution. The lesson of that great catastrophe was not altogether lost on British statesmen. It is true that, when the form of government in the surviving British colonies in North America was reconsidered in 1791, little change was made in the pre-Revolution system. Representative government was re-affirmed and extended to the French-Canadians, who, before the British annexation of Canada in 1763, had lived under the pure absolutism of the Bourbon monarchy. But, though no more than this old first stage was conceded—no more indeed was thought of by the colonists themselves in those days—it was now for the first time recognised to be a stage. The colonial constitutions, it was declared, were to be gradually 'assimilated' as time went on, to the British constitution.¹ Fifty years later an advance to the second stage was clearly due. The inadequacy of government which was representative but not responsible was again manifest. The majorities in the legislative assemblies were confronted by executives

¹ R. Coupland, *The American Revolution and the British Empire* (London, 1930), chap. viii.

which they were powerless to remove they constituted therefore a permanent opposition whose criticism and conduct were untempered by the knowledge that their leaders might be called on to take the place of the government they opposed. When the conflict aggravated in the French Canadian Province by racialism reached in 1837 the point of armed rebellion both in that Province and in its British neighbour it seemed as if though the risings were ill-organised and easily suppressed the American tragedy would sooner or later be repeated. The situation was saved by Lord Durham's mission to Canada and the adoption after a few years' hesitation of the advice he gave in his historic Report.

Durham's first and most famous recommendation was the concession of responsible government. In other words he revived the doctrine of assimilation and urged that the time was overdue for proceeding from the first stage of the process to the second. But the value of the Report did not lie only in its lucid exposure of the failings of purely representative government and its impressive plea for the application of the traditional British remedy. No less important was the manner in which Durham overcame the logical dilemma which seemed to inhibit the natural advance of responsible government in a colony, it was argued meant the disruption of the Empire, since if the Governor acted only on the advice of ministers responsible to the colonial legislature he could no longer be subject to instructions from the Secretary of State and thus the constitutional tie that linked the colony with Britain would be broken. Durham met that argument by a simple but ingenious device. He divided the field of government. He pointed out that the colonists only wanted to manage their own domestic affairs. Affairs which concerned the Empire as a whole—and of these the most important were foreign policy, defence and the control of overseas trade—they would be content to leave in the hands of the British Government.

There could be no finality of course in this division of the field of government. It could be only a temporary or transitional arrangement since as the colonies grew in population, wealth and political self-confidence they were bound to demand the extension of their powers of self-government over the whole range of politics, bound to feel that British citizens overseas must stand on the same political footing in all respects as their fellow citizens in Britain. And this was the more inevitable when colonial politics expanded from a provincial to a national scale in accordance with the second and equally vital part of Durham's programme. The disjointed colonies of British North America he declared must be united to form a great and powerful people. The North American colonist must acquire a nationality of his own. Misjudging the French Canadian problem he himself proposed to build up a national government on a unitary basis but it was easy to undo that mistake and in 1867 the alternative method of federation was adopted and the Provinces linked

in the federal Dominion of Canada, acquired the political framework of a new Canadian nationhood¹

The national future of Canada was now assured, and with it that of the other groups of colonies in Australia, New Zealand and South Africa which were likewise united in due course under national governments. Responsible government, once conceded, could not easily be withdrawn, and its extension over the whole field of national life could only be a matter of time. One by one the subjects reserved by Durham to British control were transferred to that of the Dominions—to use the collective title which the young nations of the Commonwealth presently acquired. The control of overseas trade or fiscal autonomy was the first to change hands, as early indeed as 1858-9, ten years before the federation of 1867, the Province of Canada set up tariffs to protect its nascent industries from British as well as American competition. Next came defence. In 1871-2 Canada, Australia and New Zealand undertook their own local defence, and the British regular troops hitherto maintained in those Dominions were withdrawn. In South Africa, where national unity was not achieved till 1910, there were still some 4000 British troops in 1914 and two companies of British artillery in 1916. There only remained foreign policy. Though this involved the supreme issue of peace and war, the Dominions, far away from the storm-centre in Europe and preoccupied with the tasks of their own economic and social development, were for a long time content to leave its conduct in the hands of the British Government, and this despite the fact that in those days it was generally agreed that a declaration of war by the King on the advice of his British ministers involved the Dominions as belligerents². But this last element of inequality in the scope of Dominion citizenship as compared with British could not survive the crisis of 1914-18. When the war, in which all the Dominions freely and fully shared, was over, the Dominions asserted their right to speak and act for themselves in foreign as in all other affairs, though in the closest possible co-operation with Britain and each other. They negotiated, signed and ratified the Treaty of Versailles as separate nations. They became members of the League of Nations in their own right. Thus, in fact, though not yet in administrative form or in law, the process of 'assimilation' had reached its climax.

It only remained to attest that fact and to remove those inequalities in form and law. The former object was achieved by the Declaration of 1926, jointly made by the Prime Ministers of Britain and the Dominions and the representative of the Irish Free State. It defined the 'position and mutual relation' of their self-governing communities' as follows:

¹ The creation of the Dominion of Canada has sometimes been confused with the acquisition of Dominion Status, a term which came into use after the War of 1914-18 to denote the status of all the overseas nation members of the British Commonwealth—the Dominion of Canada, the Commonwealth of Australia, the Union of South Africa, the Dominion of New Zealand and the Irish Free State (later known as Eire).

² It was also agreed that the Dominions were free to adopt the rôle of 'passive belligerency', i.e. to take no active part in the war unless they chose or the enemy compelled them.

They are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect to their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations¹

The questions of form and law were briefly discussed at this Conference and more fully at those of 1929 and 1930. All administrative points were settled by the adoption of the principle that on matters concerning a Dominion the King would act on the advice of his ministers in that Dominion and that it would be unconstitutional for his ministers in the United Kingdom to tender contrary advice. In other words the union of the British Commonwealth in 'a common allegiance to the Crown' meant that the King was now the head of a number of separate though co-operating Governments. As the visit of King George VI to Canada in 1939 plainly showed, he is King in Canada in the same sense as he is King in Britain. It follows that in all that concerns one Dominion only—the negotiation, for example of a treaty with a foreign state of purely local significance or the appointment of a Governor General—His Majesty's Government in a Dominion acts as freely and independently as His Majesty's Government in the United Kingdom. As regards matters of common interest to all the Commonwealth or to more than one member of it—such as foreign policy, the conclusion of more general treaties, defence—it was agreed that all the Governments should inform and consult and co-operate with each other to the fullest possible extent.

The legal position was adjusted by the Statute of Westminster, 1931

The object of that Act was not, as is sometimes loosely thought, to provide the British Empire with a constitution but only to equalise the status of the Dominion Parliaments as far as possible with that of the British Parliament. Its main provisions were (1) that no British legislation should have force in a Dominion except at its request and with its consent, (2) that no Dominion law should be liable, as heretofore, to be deemed invalid because it was 'repugnant' to such legislation or any other British laws, and (3) that Dominion laws like British should operate extraterritorially. It was also declared in the preamble of the Statute that laws affecting the succession to the throne or the royal style and titles should require the assent of all the Parliaments.

'Dominion Status was thus defined and legalised between 1926 and 1931 Subsequent events have shown that it is not interpreted in quite the same way by all the nations of the Commonwealth. On one aspect of it, the complete and equal measure of self government it confers, all are agreed. It is on the other aspect, the common allegiance of all the nations to the Crown and their free association in the Commonwealth, that some difference of opinion has emerged—a natural difference since on one side are those nations which, being mainly the outcome of British

¹ *Proceedings of Imperial Conference 1926* (Cmd 2768). This and other documents are conveniently reprinted in A. B. Keith, *Speeches and Documents on the British Dominions, 1918-31*.

colonisation, have grown, so to speak, into the Commonwealth, and on the other side those nations which have been brought into it by conquest.

Thus in Canada, Australia and New Zealand no question has been raised as to allegiance to the Crown; but in South Africa, most of whose white population is of Dutch descent and two of whose four provinces were converted into British colonies by force of arms, a minority has continued to cherish the republican idea. The majority, however, accepted the position of its Government as one of His Majesty's Governments, and contented itself with the passing of the Status Act in 1934, which declared that the Union was 'a sovereign independent State' and its parliament 'a sovereign legislative body' whose specific act would be required to secure assent to the application of future British legislation to South Africa. The Irish Free State, nursing older and darker memories, went further. In 1937 a new constitution was adopted for Eire—as Southern Ireland was now to be called—which was republican in form, since it contained no mention of the King. The office of Governor-General, moreover, was converted into that of the President of Eire, who was appointed without reference to the King. At the same time, it was understood that Eire remained a member of the British Commonwealth and that the King acted as head thereof on the advice of its associated Governments.

Of greater practical importance was the question of free association. Did it mean that the nations of the Commonwealth were free to disassociate? Most students of the new system were inclined to hold that the question was not one of law or right and could be left to be settled by events. The outbreak of war in 1939 was such an event, and it was at once generally agreed that, whatever international law might be, the Dominions could not be regarded as taking part in the war until they had freely decided whether or not they should do so. The Canadian, Australian and New Zealand Parliaments decided to fight, in each case unanimously; and in accordance with their ministers' advice those Dominions were duly declared in the King's name to be at war with Germany.¹ In South Africa General Hertzog's Government was in favour of a declaration of neutrality, but was defeated on that issue in Parliament and superseded by a Government led by General Smuts which, supported by a parliamentary majority, followed the other Dominions' lead into war. But again the Southern Irish were out of harmony with the rest of the Commonwealth. Mr de Valera's Government adopted, with little opposition, a policy of neutrality, and, though this gravely weakened the defence of Britain, the British Government acquiesced in it. Whether neutrality in these circumstances is compatible with 'association' in any useful sense of the word can await discussion till the war is over. For present purposes it is enough to point out that on a supreme issue of foreign policy Eire made

¹ In Australia and New Zealand Parliament confirmed the declaration which had been made by the Government as soon as it was known that the United Kingdom was at war. In Canada the Government waited for Parliament's approval, so that the declaration was not made till September 10.

her own choice without constraint from Britain or other members of the Commonwealth

One closing comment on Dominion Status is required to correct a common mistake Dominion Status in principle has nothing to do with the form or type of internal constitution in a Dominion It is only concerned with the external position. It is a matter so to speak of the international relations between the nations of the Commonwealth It fixes that relationship as one of equality It may be hard to imagine the Commonwealth as anything but an association of States under parliamentary government but Dominion Status does not require a Dominion's internal constitution to be parliamentary A Dominion might enjoy Dominion Status under any domestic regime, provided (1) that it maintained allegiance to the Crown (2) that it contained no element of subordination to any other member of the Commonwealth, and (3) that it accepted free association with the other members¹

¹ Most of this paragraph formed part of a letter which was published in *The Times* on February 20 1935

CHAPTER V

THE MONTAGU-CHELMISFORD REFORMS

I DEVELOPMENTS IN INDIA, 1909-16

MR. GOKHALE and his fellow nationalists had warmly welcomed the constitution of 1909. In the teeth of Morley's disclaimer they had regarded it as a definite step forward along the colonial path to parliamentary self-government. And so, whatever Morley thought, it was. For it established the principle of representative government in the Provinces and introduced a substantial measure of its practice. Not only would Provincial legislation now normally require the assent of non-official majorities in the Councils in all Provincial matters they could now discuss administration, including the Government's financial proposals. But there were serious limitations. Since the ultimate responsibility for the good government of India was still vested in the British Parliament, which meant, as has been explained,¹ the maintenance by the Central Government of a wide measure of control over the Provincial Governments, the Councils' field of action, both in administrative and legislative matters, was still severely circumscribed, and the constant necessity of having to refer to the Centre and accept its decisions tended to give their proceedings an air of unreality. Moreover, though the politicians were now free to criticise the executive, they could not control it. They had more influence on government than perhaps they realised. The officials still mostly British, were rightly anxious to secure as much sympathy and co-operation as possible from the Councils, and on that account they often took action under the pressure of majority resolutions which they would not otherwise have taken. But 'often' is not 'always', and 'influence is not government'. In these circumstances the Indian members of the Councils, and not only the elected members but to some extent the nominated members also, began to assume the rôle of a regular Opposition. Yet it was a sterile opposition. To carry a resolution against the Government might be hailed as 'a great moral victory', but it was not a real one, for the Government was not obliged to bow to it.

If the general result was a sense of frustration, that is not to say that the constitution of 1909 was a failure. Some advance had been necessary, and it had made it. It worked without any serious hitch for ten years. It provided a useful training both for politicians and for officials. It would probably have lasted longer if, impelled by events outside India rather than inside, the tide of nationalism had not risen so fast. But,

¹ See pp. 7-12 above

as it was, the new Councils, overpraised perhaps at their birth, were soon being criticised and disparaged. By 1915, at any rate, Indian nationalists generally took the view that the advance of 1909 had raised hopes only to disappoint them.

One of the results of this dissatisfaction with the working of the Councils was to shift the centre of Indian political activity back to the party or communal organisations outside them. At first the Congress seemed to have been displaced or overshadowed by the Councils but it soon recovered its old ascendancy. The speeches and resolutions at its meetings, not those in the Council chambers, were again regarded in political circles as the authentic expression of India's desire for political advance. And Congressmen, dissatisfied though they now were with the Act of 1909, still had no doubt about its principles as they had interpreted them. They were not questioning the method of advance, but only its pace. They still adhered to the colonial model. Their constitution was amended in 1911, 1912 and 1915 but the first article to which every member of the Congress had to subscribe still proclaimed its goal to be a system of government similar to that enjoyed by the self governing members of the British Empire.¹

The three chief moves made by the Congress in this period were in accordance with that line of policy. In 1911 it expressed warm approval of a dispatch by the Government of India recommending the gradual extension of 'a larger measure of self government to the Provinces, which it interpreted as meaning that the Provincial Governments should be not only less controlled by the Centre but also more controlled by the Provincial Councils'.² In 1913 it called for another step-forward in the constitution of the Councils: there should be a non official majority at the Centre and elected majorities in all the Provinces besides Bengal.³ In 1915 it declared that the time had come for the Provincial Councils to acquire 'an effective control over the acts of the Executive Government'.⁴

This did not mean, however, that the Congress leaders were already contemplating an advance from representative to responsible government. They knew what those terms meant. Some of them were better acquainted than most British statesmen with the Durham Report⁵ and Mr Gokhale had defined the next step, 'a long and weary step, but the step will have to come, as the attainment of responsible administration'.⁶ Thus, as his language shows, he and his fellow nationalists were only asking at this stage for a fuller measure of representative government. They were not thinking of constituting governments themselves, but only of somehow controlling them. And this attitude was not surprising. The old sense of the power and prestige of the British Raj still lingered in most Indian

¹ *Congress in Evolution*, 208

⁴ See p. 49 below

² *Congress in Evolution*, 14-17

⁵ The Report was discussed, with long quotations, by Mr Srinivasa Sastri in a pamphlet entitled *Self Government for India under the British Flag* (Allahabad, 1916)

⁶ *Speeches*, 855

minds, nor was any thoughtful Indian politician yet prepared to take into his own hands the management of that vast and difficult machinery. The process, moreover, of developing a parliamentary system was as yet only in its earliest stages. Representative government was still a novelty and still incomplete, and full representative government had existed in Canada for more than fifty years before it was converted into responsible government. The attitude, in fact, of the Indian politicians at this time was more like that of Pym and Eliot in seventeenth-century England than that of Baldwin and Howe in the Canada of Durham's day. It was not till 1916 that, in the new atmosphere created by the war, they proposed that they should take a hand in the government themselves, and that proposal, as will be seen, meant something much less than real responsible government.

Throughout this period of advancing claims the Congress had by no means ignored the problem of the Moslem minority. The article of the constitution which allocated the seats for the All India Congress Committee prescribed that 'as far as possible $\frac{1}{3}$ of the total number of representatives shall be Mahomedans'. Another article provided (1) that no subject could be discussed or resolution carried in the Congress if three-fourths of the Moslem or of the Hindu delegates objected, provided that they constituted not less than one-fourth of the whole assembly, and (2) that in all proposals made for the extension of Indian self-government 'the interests of minorities shall be duly safeguarded'.² On the vexed question of the method of election, however, the Congress refused to compromise. At the Session of 1913 separate electorates were again condemned.³

On this issue the Moslem leaders were equally unyielding. Separate electorates were, as has been seen, the indispensable safeguard without which they would not have acquiesced in the Reforms of 1909. But their disagreement with the Congress went deeper than that. Like Morley they would have had nothing to do with those Reforms if they had been designed to lead on the colonial precedent towards a parliamentary system; yet that was precisely how the Congress, ignoring Morley's disclaimer, had interpreted them. This fundamental cleavage of opinion was soon made manifest. At a meeting of the Council of the League in 1913 the adoption of the Congress formula of colonial self-government as the constitutional objective was moved but found no second; and the Council adopted in its place the formula, 'the attainment under the aegis of the British Crown of a system of self-government suitable to India'—a decision which the League confirmed. The President of the Council, Mr. (afterwards Sir) Muhammad Shafi, denounced the Congress formula as inadmissible and unsound.

² Article XIII; *Congress in Evolution*, 210-11.

³ Article XXVI, *ibid.*, 214.

⁴ *Ibid.*, 16.

THE MONTAGU CHELMSFORD REFORMS

✓ The political conditions internal and external prevailing in the British Colonies have no analogy whatsoever with those obtaining in India and I am in entire accord with my friend the Honourable Mr Jinnah in thinking that the adoption of any course other than the one proposed by the Council would be absolutely unwise ¹

Thus the old breach seemed to be widening when the outbreak of the war and the growing understanding of the issues at stake gave new strength and meaning to the idea of Indian nationhood. There had always been some Moslems in the Congress ranks and now within the League itself a group of younger men began to urge that League and Congress should join forces to ensure that one of the results of ~~the~~ war should be a much larger measure of self government for India. In the autumn of 1916 when it was known that the British authorities were also considering this question nineteen members of the Indian Legislative Council Hindu and Moslem drew up an agreed plan of constitutional advance. It was discussed amended and accepted at subsequent meetings of the Congress and the League and at the end of the year the pact was formally ratified at Lucknow.

This agreement between the two major political organisations may be regarded as the most striking expression of Indian nationalism so far achieved within the bounds of British India. And it was only achieved by major concessions on both sides. The Congress at last conceded separate Moslem electorates. It even acquiesced in their introduction in the Punjab and the Central Provinces where they had not hitherto existed. Seats more over on the Councils were allotted to those electorates on a generous scale. In Bengal the Moslems were to obtain only three quarters of the seats to which they would have been entitled on a purely numerical basis and in the Punjab only nine tenths but in both these Provinces this was a great increase on the extent of Moslem representation under the Morley Minto Reforms. In Bengal it was raised from 10.4 to 40 per cent in the Punjab from 25 to 50 per cent ². And in the other Provinces the Moslems were to obtain many more seats than they had at present or would have on a population basis. In the United Provinces and Madras for example a 14 and 6.10 per cent Moslem population would have a 30 and 15 per cent representation. Moslem strength at the Centre was similarly increased by the allotment of one third of the elections to the Council to separate Moslem constituencies. The Moslems it is true were to surrender the additional advantage they had obtained in 1909 of also voting in general electorates but by the more conservative or communal minded among them this may well have been regarded as no loss since it emphasised and secured the distinction between the two communities. A final safeguard

¹ Memorandum by the All India Muslim Association 1918 [Cmd 123] 1919 124. See also *The Pioneer* March 24 1913.

² No seats had been reserved for Moslems in the Punjab but five had been elected and two nominated for a Council of twenty eight. The figures and percentages are given in *Indian Statutory Commission* iv 139-40.

—and, however it might work in practice, a notable departure from the pure doctrine of 'majority rule'—was provided by the application of the device adopted in the Congress constitution. No bill or resolution affecting a community should be proceeded with if three fourths of the representatives of that community were opposed to it.

These were far more substantial concessions than the Moslems had been given by Morley and Minto to secure their acquiescence in the Reforms of 1909, and the League on its side acquiesced in the joint proposals for a further liberalisation of the Councils. The cardinal points of the Congress-League Scheme as it was called, may be summarised as follows: (1) The Provinces should be freed as much as possible from Central control in administration and finance. (2) Four-fifths of the Central and Provincial Legislative Councils should be elected, and one-fifth nominated. (3) Not less than half the members of the Central and Provincial Governments should be elected by the elected members of their respective Legislative Councils. (4) The Governments, Central and Provincial, should be bound to act in accordance with resolutions passed by their Legislative Councils unless they were vetoed by the Governor-General or Governors in Council, and, in that event, if the resolution were passed again after an interval of not less than one year, it should in any case be put into effect. (5) The Central Legislative Council should have 'no power to interfere with the Government of India's direction of the military affairs and the foreign and political relations of India, including the declaration of war, the making of peace and the entering into treaties'. (6) The relations of the Secretary of State with the Government of India should be similar to those of the Colonial Secretary with the Government of the Dominions, and India should have an equal status with that of the Dominions in any body concerned with imperial affairs.¹

This scheme was proof that the Indian politician's mind was not purely critical and unconstructive, but it had one major defect on account of which, as will be seen, it never materialised. It did nothing to remedy the inherent weakness of purely representative government. On the contrary, it aggravated it by giving the elected majorities much greater power to embarrass and obstruct their governments, without being able to remove those governments and shoulder their responsibilities themselves. Whatever the strength of their opposition, those governments, most of whose members would not be chosen by or accountable to them, would remain in charge of the whole field of administration. While, therefore, the scheme was an encouraging manifestation of Hindu-Moslem accord in the work of advancing Indian self government, it could not be assumed that its Moslem supporters had conquered their distrust of the representative principle. On balance the real power would still be exercised not by the leaders of Hindu or Moslem majorities, but by neutral officials who, at any rate as long as India had not attained the same status as the Dominions,

¹ The full text of the Congress League Scheme is given in *Congress in Evolution*, 189-92.

would still be under the ultimate control of a distant and neutral parliament. Thus though the scheme of 1916 was a great advance on the existing position some Moslems may still have felt about it what Morley had felt about the Act of 1909. However that may be the agreement on the scheme was unquestionably a triumph for Indian nationalism and the Congress accompanied its adoption of it with a plea that the British Government should declare its intention to confer self government on India at an early date and that in any reconstruction of the imperial system India shall be lifted from the position of a dependency to that of an equal partner in the Empire with the self governing Dominions.¹

II THE ANNOUNCEMENT OF 1917

British opinion meantime had been affected, like Indian opinion, by the war. For the first few years after the introduction of the Morley Minto Reforms it was taken for granted that some considerable time would elapse before another advance would be justified. Nor were British statesmen yet prepared to accept the colonial model as the guiding line of development in India. In 1912 there was an illuminating debate in the House of Lords. In a dispatch of the previous year which had been mainly concerned with the establishment of a new capital at Delhi and with the reversal of Lord Curzon's partition of Bengal the Central Government had declared itself in favour of gradually giving the Provinces a larger measure of self government. This statement of policy had been welcomed not only by the Congress but also by Mr Montagu Under Secretary of State for India in a speech at Cambridge and Lord Curzon was prompted thereby to ask if the British Government were considering a further constitutional advance. But Provincial self government did not necessarily mean self government by Indians nor had the dispatch raised any doubts as to the necessity of safeguarding the ultimate supremacy of the Government of India on which the maintenance of British rule in India depends.² Thus interpreted Lord Crewe the Secretary of State in his reply could argue that there was nothing new in the policy of devolution from the Centre. The Congress in other words had wrongly interpreted the dispatch. But Lord Crewe went further. He alluded to the hopes expressed by Indian politicians without the least taint of disloyalty or any desire to break the British connexion or attaining in India something approaching the self government enjoyed by those Colonies which have of late years received the name of Dominion. I say quite frankly he declared that I see no future for India on those lines and he denied that the policy of devolution implied that anything of the kind is the hope or goal of His Majesty's ministers or of the present Government of India.³

¹ Congress in Evolution 1718

² Government of India Dispatch August 25 1911 [Cmd 599] 7

³ Hansard H of L x: (1912) 156

Crewe's attitude, in fact, was the same as Morley's, and his pronouncement was the last of an unbroken series of pronouncements, differing only in their degrees of definiteness and vigour, which had been made about the Legislative Councils since their birth in 1861. Step by step, Frere's *darbars* had in fact drawn nearer to becoming parliaments. Yet in 1912 the notion that this process was intended or desired was rejected as firmly as it would have been in 1861. And the reason is plain. Those fifty years had not removed the difficulties in the way of a parliamentary system. To some extent, as has been seen, the growth of education had enhanced them by stimulating communal feeling. That being so, the negative aspect of British policy was natural enough. It is more surprising, perhaps, that it had no positive side. One after another, British statesmen had repudiated a particular method of advance towards a self-governing India, but none of them had suggested an alternative. If they had any conception of the direction in which the sequence of Reforms was moving, it was towards what Minto called 'constitutional autocracy'. But they seem never to have considered at what point the paradoxical process of making autocracy constitutional would stop, nor how in the end a British autocracy could be converted into an Indian one. It might almost be said that they were still 'walking in darkness', as in Macaulay's day, without seeing whither they were going. And the reason again is not far to seek. The immense increase in the scope and complexity of British administration had tended to push into the far distance, even over the horizon, the vision of an independent India. It was easier for a Hastings or a Lawrence to imagine it than for a Curzon. In India the British officials were too much preoccupied with the daily task of fulfilling their 'trust' to worry about its ultimate termination, and in England Indian policy had ceased to be a burning question. Before the mutiny the renewal every twenty years of the East India Company's charter by Act of Parliament had been accompanied by much close committee-work and by well-informed debates. It might have been supposed that this parliamentary interest in India would have been augmented by Parliament's assumption of direct responsibility for its government, but in fact the result was just the opposite. Even the series of Council Acts excited little attention and less controversy, and politicians came to regard Indian affairs, like foreign affairs, as matters for expert handling, and not for party warfare. Thus debates on India were rare and ill-attended, and ministerial reluctance to look beyond the morrow was fully shared by the rank and file of both parties. Only one leading statesman ventured to draw a picture of India freed from British rule, and he was not Disraeli with all his imagination and his interest in the East, but John Bright. In 1877, near the end of his life, he urged that the peoples of the Provinces should be encouraged to regard themselves as the citizens of distinctive States.

Thus, if the time should come—and it will come . . .—when the power of England, from some cause or other, is withdrawn from India, then each

one of those States would be able to sustain itself as a compact as a self governing community. You would have five or six great States there as you have five or six great States in Europe but that would be a thousand times better than our being withdrawn from it now when there is no coher-
ence amongst those twenty nations and when we should find the whole country in all probability lapse into chaos and anarchy and into sanguinary and interminable warfare.¹

It could be urged no doubt that a disinclination to speculate about the future is rooted in the British political mind that British political evolution at home or overseas has never been the outcome of a preconceived design but of a series of practical steps taken to meet practical problems as they arose and that this was pre-eminently the path of wisdom in a field so incomparably strange and complex as India. But by 1911 at any rate it was evident that this hand to mouth process had some serious disadvantages. It had worked well in the Colonies because the sensible step to take at each stage was to follow out consistently the principles of the British constitution and since those principles were clearly as suited to Englishmen overseas as at home there was no need to be over-much concerned as to the eventual outcome. Durham certainly did not foresee still less intend that the ultimate result of the policy he recommended in his day would be Dominion Status and the Commonwealth of Nations but if he had foreseen it he would probably have welcomed it. In India on the other hand the result of taking successive steps without realising to what they led had been a similar approximation to the British form of government though since India was so different from the Colonies that was precisely what those who took the steps desired to avoid. Nor was that the only undesirable result of a short range policy. It was creating a gulf between the British authorities and the strongest and most vocal and insistent section of the Indian intelligentsia. For more than twenty years the Congress had steadily pinned its faith to a course of constitutional development which was as steadily repudiated by the British Government. And since no alternative method of advance was proposed the growth of some distrust in the sincerity of British intentions was only to be expected. Was the real reason for Britain's refusal to give Indians the kind of self government they desired that she did not want them to govern themselves at all?

It would be idle to speculate how this unsatisfactory situation might have developed if the first world war had not broken out in 1914. As it was the impact of the war on the Indian problem not only forced British statesmen to look at it in Mr Asquith's phrase from a new angle of vision but to take at long last a definite decision as to how it should be dealt with and that not only on a short range but on a long range plan. There was more than one reason for this sudden change. India to begin with then as now took her full part in the war at the side of the other

¹ G. M. Trevelyan *Life of Bright* (London 1925) 266

peoples of the British Empire. She sent one million men to the battle-fields. Over £146 millions were voted from the revenues of British India towards the cost of the war, and the Princes and other wealthy Indians made generous gifts to the Government and to patriotic funds. Then, as now, moreover, we were fighting to defend the twofold cause of national freedom and democracy from the unprovoked assault of German militarism. On both counts some new response seemed needed to the appeals of Indian nationalists, and by 1916 the Government of India had begun to press the British Government, despite the urgent preoccupations of the war, to consider yet another advance in Indian policy. But what advance was possible along the path that had been trodden since 1861 except to cross the line, as the Colonies had crossed it, between representative and responsible government? To Mr. Montagu, at any rate, to whom the Reforms now imminent were mainly due, the logic of the situation seemed clear enough. The famous Report of 1918, for which he was more than half responsible, will be examined later in this chapter, but the following passage may be quoted here, for the substance of it must have been in Mr. Montagu's mind long before the words were put on paper.

The demand that now meets us from the educated classes of India is no more than the right and natural outcome of the work of a hundred years. . . . Unless we are right in going forward now the whole of our past policy in India has been a mistake. We believe, however, that no other policy was either right or possible, and therefore we must now face its logical consequences. Indians must be enabled in so far as they attain responsibility to determine for themselves what they want done.¹

At the end of 1916, as it happened, the concordat between the Congress and the League at once enhanced the strength of Indian nationalism and weakened the force of the chief obstacle to the kind of advance its leaders wanted. Just at that time Mr. Lloyd George succeeded Mr. Asquith as Prime Minister, and it was his powerful War Cabinet, with such 'elder statesmen' as Lord Curzon, Lord Milner and Mr. Balfour in its ranks, that approved and issued the historic announcement of August 20, 1917. It was communicated to the House of Commons by Mr. Montagu, now Secretary of State for India, its more important passages were as follows:

The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire. . . . I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be the judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of

¹ U.C. Report [Cd 9109], § 179

service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility.¹

It will be observed that there was no novelty in the first part of the twofold policy set out in this Announcement. The appointment of Indians to official posts had been foreshadowed as long ago as 1833,² and, if far too little had been done to make the intention good in all the intervening period, a long step forward, which will be recorded on a later page,³ was taken in the course of the next few years. The novelty of the Announcement lay in the second part of it, for this was, in the first place, the first time that the goal of British policy had been officially defined—for Macaulay's hopes had been too vague to be called a definition—and in the second place the proposed method of attaining it was precisely the method which had been so persistently rejected in the past.

Read with no knowledge of constitutional history in Britain or in the Colonies, the words 'responsible government' are indefinite and can be variously construed and it was disclosed after his death by his biographer that Lord Curzon had himself inserted the words in the draft of the Declaration in the belief that they had only this rather vague and loose meaning. He was greatly perturbed, it is recorded to find that he had committed himself to the very form of government in India against which less than ten years before, he had warned Lord Morley.⁴ But so it was. Against the historical background, 'responsible government' could only mean that the government was responsible to the people in the familiar British way. It could not mean the kind of responsibility which an enlightened autocrat may feel towards his subjects, still less the kind of responsibility which his ministers render to their master. It could not mean government by *darbar*. Nor could it mean a system of executive responsibility which was democratic but different from the British such as the American system whereby the executive is responsible not to the legislature but to the electorate. For history had given the words a single and certain meaning. Responsible Government was the parliamentary or cabinet government by means of which the sovereignty of Parliament was established after the period of civil war in England. Responsible Government was the watchword of reform in Canada in Durham's day. Both meant the same thing—that the Government is responsible to the elected representatives of the people.

Thus the use of those words defined beyond dispute the method of advance. It was the colonial method the method adopted by Mr Gokhale before the turn of the century and still adhered to by the Congress. And the longer phrase, 'the progressive realisation of responsible government in India as an integral part of the British Empire', defined the goal as well. For it implied that some day responsible government in India was to be completely realised without breaking its connexion with the

¹ *Hansard*, xlvii (1917) 1693.

² See p. 20 above.

³ See p. 82 below.

⁴ Lord Ronaldsday (now Zetland), *Life of Curzon* (London 1925), II, chap. x.

British Empire, and that could only mean an India fully governing itself on a parliamentary basis, yet still retaining its allegiance to the British Crown. That again was in exact accord with the colonial model. Indeed that phrase, though one at least of its authors was unaware of it, was a terse and accurate description of the rise of the self-governing Colonies to Dominion Status.

III. THE MONTAGU-CHELMSFORD REPORT

As foretold in the Announcement of 1917, Mr. Montagu went out to India soon after it was made. He returned in the spring of 1918, and at midsummer a joint 'Report on Indian Constitutional Reforms' by him and Lord Chelmsford, the Viceroy, was published. The first comprehensive study that had yet been made of the whole problem of Indian government, it took rank at once as a permanent contribution to the science of politics and the history of British imperialism. For the purposes of the inquiry undertaken in these pages it is of quite outstanding interest. For it was an attempt to show how the revolution in principle—and it was nothing less—proclaimed by the Announcement of 1917 could be put into practice. That Announcement had assumed that the obstacles which British statesmanship had hitherto regarded as prohibiting a parliamentary system in India could somehow or other be overcome. The primary purpose of the Report was to justify that assumption.

Its authors' task would have been easier if they could have argued that British statesmen from Macaulay's time to Morley's had imagined the obstacles to be greater than they were. But that path was barred. The facts were undeniable, and Mr. Montagu and Lord Chelmsford did not evade them or seek to minimise their importance. But they did deny that the difficulties inherent in them were insuperable, if only Indians could be inspired by a new sense of political obligation and a new faith in the future of their country to confront them and grapple with them themselves. And thus, they explained, was the fundamental purpose of the new policy. 'India's political future is not to be won merely by fine phrases. . . it depends on the capacity of the people themselves to face difficulties and dispose of them'.¹ And that capacity could only be fostered and enlarged by freedom. In its essence, in fact, the Report was a declaration of belief in the philosophy of liberalism. 'It is liberty alone', Gladstone had said about Ireland, 'which fits men for liberty.' This proposition, like every other in politics, has its bounds; but it is far safer than the counter-doctrine, wait till they are fit.² That creed in the last analysis was Montagu's only answer to Morley. On it the whole fabric of the new design depended. In an eloquent passage the Report declared that the policy of the Announcement, 'the most momentous

¹ M.-C. Report, § 136.

² Morley, *Life of Gladstone* (London, 1903), II, 58.

ever made in India's chequered history, and of the measures now recommended to carry it out was not prompted by the agitation of a few politically minded Indians but inspired by the conviction that the only means by which India could fit herself for liberty ought no longer to be withheld. Our reason is the faith that is in us.¹

A brief examination of the Report will show how this cardinal doctrine was applied to all the main aspects of the problem. Thus to begin with the backwardness of the vast majority of the Indian people was frankly admitted. The immense masses of the people are poor ignorant and helpless far beyond the standards of Europe. Only 11 per cent of the men in British India and only 11 per cent of the women had been able at the last census to read and write a letter. Nearly eleven twelfths of the population live in villages wholly occupied with the cultivation of their own or others' fields knowing and caring nothing about politics and with little to spare for more than the necessities of life. Political interest, non-existent among the peasantry, has been slow to affect the landlord class and is thus mainly confined to the educated minority in the towns who have hitherto not been much concerned with the problems of the countryside. But though the transfer of real power to this mainly urban and professional class might well be regarded—and was so regarded by the critics—as the introduction of an oligarchy rather than of a democracy for which the demos was admittedly not yet fitted the authors of the Report refused to wait till they are fit. While stressing the obvious need of a far wider system of popular education they did not propose to await the fruition of a process necessarily so long and costly. The villagers should be taught without delay to turn to their elected representatives for the interest in their lives and the help in bettering them which they had previously obtained from government officials. They must learn to stand on their own feet and use their votes to protect their rights. And to that end indirect election to the Provincial Councils must give place to direct election on as wide a franchise as might prove practicable. Nothing better illustrates the faith of the Report than the answer it gives by anticipation to those who might deplore the intrusion of politics into the quiet unchanging life of India's countless villages. We believe profoundly that the placid pathetic contentment of the masses is not the soil on which Indian nationhood will grow and that in deliberately disturbing it we are working for her highest good.²

The attitude of the Report to the political intelligentsia was similarly inspired by trust in the power of freedom and responsibility to bring out the best in men. It did not challenge the right to the political leadership they had already acquired in pursuit of our own ideals of self government. On the contrary it appealed to them to hasten the full attainment of those ideals by devoting themselves to the immense task of educating their country as a whole to its new political life and especially to

¹ M. C. Report, § 7 144

² Ibid. § 144

breaking down the social and communal barriers which obstructed its development¹

It was these barriers, more than the backwardness of the people, that had seemed for so long to set a veto on parliamentary institutions in India, and again the authors of the Report did not question their reality and strength. They drew attention to the essentially undemocratic character of the Hindu caste-system, giving as examples the exclusion of low-caste children from schools attended by those of the higher castes and the still harsher treatment of the out-castes; and, linking caste with communal antipathies they stated in plain terms that, so long as such sectional interests were paramount, 'any form of self-government to which India can attain must be limited and unreal at best'. As to the communal question and Hindu Moslem antagonism in particular, it was, they confessed, 'the difficulty that outweighs all others'; nor did they offer any hope that it could be easily or quickly overcome. While they welcomed the Congress League concordat of 1916 'as testimony to the growing force of national feeling', they did not believe that it meant a real and lasting closing of the gulf.

To our minds so long as the two communities entertain anything like their present views as to the separateness of their interests, we are bound to regard religious hostilities as still a very serious possibility. The Hindus and Mahomedans of India have certainly not yet achieved unity of purpose or community of interest.²

It was the recognition of this fact that compelled Montagu and Chelmsford to acquiesce, like Morley and Minto before them, in the retention of separate Moslem electorates. They could not, of course, approve of them. They rejected the view that 'communal representation is an inevitable, and even a healthy stage in the development of a non-political people'. The history of self-government, they wrote, proclaims the refusal of the State to admit any rival claims to a citizen's allegiance. To admit them now in India, they declared, was to hamper the growth of 'the citizen spirit' and to 'stereotype existing relations'.

Division by creeds and classes means the creation of political camps organised against each other, and teaches men to think as partisans and not as citizens, and it is difficult to see how the change from this system to national representation is ever to occur. The British Government is often accused of dividing men in order to govern them. But if it unnecessarily divides them at the very moment when it proposes to start them on the road to governing themselves, it will find it difficult to meet the charge of being hypocritical or short-sighted.

Yet to maintain the existing system 'until conditions alter' was a practical necessity. The Moslems regarded separate representation and communal electorates as 'their only adequate safeguards', and in 1916 they had at last obtained the acquiescence of the Congress. A scheme of advance

¹ *M.-C. Report*, §§ 132-51.

² *Ibid*, §§ 151-4.

which differed on constitutional grounds from that which had emerged from the pact of 1916 might possibly succeed but it would have no chance of securing the requisite measure of agreement and co operation if it overrode the Congress League decision on the communal issue. So the Report reluctantly accepted it. At the same time it refused to extend the privileges conceded to the Moslems to any other community with the one exception of the Sikhs, who though 'a distinct and important people' were everywhere in a minority and had hitherto been virtually unrepresented.¹

To be forced to this concession of communal electorates was clearly the heaviest strain to which the faith of the Report was subjected, and it was open to critics to point to it as virtually an admission that, whatever might be said about the other difficulties Hindu Moslem schism made parliamentary government as understood in England unworkable in India. Again the Report gave its answer in advance and it could only be the same answer. But this time it took the form of a direct appeal to the communities and to the castes as well to accommodate their sectional interests to 'the greater welfare of the whole in order to achieve the goal of Indian nationhood. 'On them all rests a great responsibility for the development of their common country and their realization of this truth will be the surest way, perhaps the only way of ending disunion.' Only in a united self governing India could its people attain the full measure of civic life.

The vision is one that may well lift men up to resolve on things that seemed impossible before. Is it too much to hope that the desire of the people of India so to govern themselves and the conviction that they can never do so otherwise in any real sense may prove eventually to be the solvent of these difficulties of race and creed?²

II

To justify the policy of the Announcement in face of the facts of Indian life was only the first part of Mr Montagu's and Lord Chelmsford's task. They had also to determine the substantial steps to be taken in the execution of the policy. And at first that seemed an almost insoluble puzzle. How could responsible government be realised progressively? An executive must be either responsible to its legislature or not. How can the latter's power to remove it and replace it be attained by successive stages? Yet it was common ground that the advance must somehow or other be gradual, since nobody, British or Indian supposed it that time that the whole task of government could be forthwith entrusted to Indian politicians accountable only to Indian legislatures.

To this puzzle the Congress League Scheme of 1916 offered no solution. For it had nothing to do with responsible government. Its object was to make the executive amenable but not responsible to the legislature. Not only would the Government be deprived of all power to carry any legis-

¹ M. C. Report, §§ 227-32

² *Ibid.*, § 151.

lation which it might deem essential for the peace and well-being of the people; it would also be obliged, after at most a year's delay, to act at the legislature's bidding, however much it might itself condemn such action. But, although (to quote the Report) 'no government can consent to remain in office and to put into effect orders of which it disapproves', neither the Governor, nor half the members of the Government as contemplated in the scheme, could resign or be replaced to meet the wishes of the legislature since they were responsible not to it but only to the Secretary of State. It was hard to imagine how such a two-part Government could be expected to work, or how it could afford a training either for politicians or for the electorate in political responsibility. While, therefore, the Report agreed with certain other features of the scheme, such as the enlargement of the Councils and the further devolution of powers from the Centre on to the Provinces, it firmly rejected its main proposals.¹

The problem of making responsible government at once real and progressive was eventually solved by dividing the field of government. The plan, in fact, recalled the device which Durham had conceived in Canada in that both were based on the practicability of political dualism.² Montagu and Chelmsford were operating at a far earlier stage of constitutional development. The Indian Provinces were not yet ready, like the Canadian in 1839, for full domestic self-government. But the principle of dual government or dyarchy, as it now came to be called, was none the less applicable. If Indian politicians and legislatures could not yet manage all the affairs of a Province, they might manage some of them, and by the experience thus gained become qualified to manage more. To carry out this idea in practice would obviously be difficult, but so, and only so, it seemed, could the realisation of responsible government be progressive. The Report accordingly recommended that certain subjects of administration in each Province should be transferred to the control of 'Ministers' chosen from and responsible to the majority in the Legislative Council, and on those subjects the Governor would normally 'act on their advice'. The other subjects were to be reserved to the control of the Governor and his Executive Council, whose members would still be officials and, while discussing their policy with the Legislative Council, would be responsible not to it but, as before, to the Secretary of State. To safeguard the discharge of his duties in the 'reserved' field the Governor was to be empowered to enact any bill, including a money-bill, over the head of the Legislative Council if he should 'certify' that it was essential, but all such measures would be subject to prior approval by the British Government except in a 'state of emergency', when they would be subject only to subsequent disallowance.

¹ M.C. Report, §§ 187-77. For a full discussion of the constitutional principles involved, see L. Curtis, *Letters to the People of India on Responsible Government*, reprinted in *Dyarchy* (Oxford, 1930), part viii.

² See p. 39 above. Durham's dualism was never imposed by law, it operated by usage and convention.

At the end of ten years a Commission should be appointed, with direct authority from Parliament, to examine the working of the system and to advise as to whether the time had come for complete responsible government in any Province or Provinces or whether some subjects now 'reserved' should be 'transferred' or, if matters had gone badly, the reverse. Similar inquiries should be made thereafter at intervals of twelve years.¹

So much for the Provinces, but the 'substantial steps' proposed by the Report were not confined to the Provincial field. None of its features, indeed, is more striking than its acceptance of the ultimate result of the Announcement. It refers again and again to the need of developing a real consciousness of Indian nationhood as the first condition of national self-government. Just as Durham accompanied his plea for responsible government in the Canadian Provinces with a vision of the future nation of Canada, so Montagu and Chelmsford pointed to the goal of Indian nationhood, not only as an end in itself, but as the means of overcoming the dissensions which obstructed the path of political advance. They met the familiar assertion that India can never be a nation but only a congeries of nations by referring, in the language of the Islington Commission, to 'that growing body of western educated opinion which is gradually creating a new atmosphere all over India and that new sense of unity which is displacing the idea of ordained separation hitherto prevalent in Indian society. And, though it might well seem dangerous to do anything that might weaken the strength and stability of the Central Government at the same time as the very nature of the Provincial Governments was being, in part at least, transformed. Mr Montagu and Lord Chelmsford decided that the nascent consciousness of national unity must be given some constitutional expression on a national scale. It seemed clearly premature to introduce responsible government at the Centre until it had been tried and tested in the Provinces, but they boldly recommended the concession of a wide measure of representative government. They proposed that the Central Legislative Council, which in 1918 was still only a relatively small body of 67, of whom 35 were officials, 5 nominated non-officials, and 27 elected members should be replaced by a full dress legislature of two houses, the Council of State and the Indian Legislative Assembly, in both of which the great majority of members would be elected. This was not only a long step in itself, it was a clear intimation that the line of advance at the Centre would presently correspond with that at the Provinces since, as had been shown by events not only in the Colonies but also and more recently in India representative government was bound in course of time to create an unsatisfactory, if not intolerable, situation which could only be remedied by making government responsible as well as representative.

There was a further implication in the Announcement. British India is not all India, and no prophet of Indian nationhood could omit the

States from his picture. Yet the insertion of them was a difficult and delicate business. For, in the first place, the democratic doctrine which so deeply coloured the Report's conception of the future of British India was out of harmony with the old traditions and the existing conditions of the States. In none of them, as has been seen, had representative government reached the stage which the Provinces had reached in 1909; in none was there any responsible government at all. Secondly, the national self-government, foreshadowed in the Announcement and foreseen more clearly in the Report, could not be established merely by agreement between the representatives of the British people and the people of British India. It would require the assent of the Indian Princes. And it was as obvious in 1918 as it is to-day that the Princes must needs hesitate to surrender their existing status and commit themselves to taking part in an all-Indian system of government inspired by democratic principles and in large measure controlled by radical-minded politicians in British India.

On the first point the Report was more candid than some, at least, of the Princes may have relished. It did not, of course, suggest that the old-fashioned government of the States rendered them of small account on the Indian political stage. On the contrary, the conduct of the Princes in the war—their contributions in men, money, material and personal service—had been sufficient in itself to demonstrate not only their devotion to the Crown but also 'their immense value as part of the polity of India'.¹ But at the same time the Princes were warned that the growth of nationalism in British India was bound to affect their position. 'Hopes and aspirations may overleap frontier lines like sparks across a street.' Sooner or later, it was intimated, all the Princes would feel constrained to take the road of constitutional advance which the more enlightened and far-seeing of them had already begun to tread. But, it was added, such changes could not be directly brought about as part of a change in British India. They could only come through 'the permeation of ideas'. Meantime, as a move towards breaking down the unnatural isolation of the States from one another and from British India, it was proposed that a council of Princes should be established at the Centre, which, though purely consultative and concerned only with the common interests of the States, would by its mere propinquity to the new Indian legislature encourage the recognition of the fact that the States had also common interests with British India.²

As to how that fact might some day be reflected in the common framework of government which the notion of Indian nationhood implied, the authors of the Report were cautious and tentative. They defined their conception of the eventual future of India as 'a sisterhood of States . . . self-governing in all matters of purely local or provincial interest' and 'presenting the external semblance of some form of federation'. Presiding over these States there would be a Central Government concerned only with their common affairs. With this Centre the Princes, while

¹ *M. C. Report*, § 298.

² *Ibid.*, §§ 129, 306, 311.

retaining their domestic autonomy might wish to be associated in such a way as to dedicate their [States] peculiar qualities to the common service without loss of individuality ¹

It must be remembered finally that the Announcement though it implied the evolution of a fully self governing India assumed that the process would never entail the dissolution of her imperial partnership. The observations in the Report on this point could not have been bettered and deserve quotation in full

Further we have every reason to hope that as the result of this process India's connexion with the Empire will be confirmed by the wishes of her people. The experience of a century of experiments within the Empire goes all in one direction. As power is given to the people of a province or of a Dominion to manage their own local affairs their attachment becomes the stronger to the Empire which comprehends them all in a common bond of union. The existence of national feeling or the love of and pride in a national culture need not conflict with and may indeed strengthen the sense of membership in a wider commonwealth. The obstacles to a growth in India of this sense of partnership in the Empire are obvious enough. Differences of race religion past history and civilisation have to be overcome. But the Empire which includes the French of Canada and the Dutch of South Africa—to go no further—cannot in any case be based on ties of race alone. It must depend on a common realisation of the ends for which the Empire exists the maintenance of peace and order over wide spaces of territory the maintenance of freedom and the development of the culture of each national entity of which the Empire is composed. These are aims which appeal to the imagination of India and in proportion as self government develops patriotism in India we may hope to see the growth of a conscious feeling of organic unity with the Empire as a whole ²

IV THE ACT OF 1919

~~It may be~~ The recommendations of the Joint Report were incorporated in a Bill which after full consideration by a joint committee of the Lords and Commons was passed into law in 1919

In the Preamble to the Act the main purport of the Announcement of 1917 was reaffirmed in slightly different language. Thus the policy of the Announcement had been necessarily described as that of the British Government and the Government of India it could now be termed the declared policy of Parliament. The responsibility for the execution of the policy similarly and for determining its method and pace was now shifted directly on to Parliament. The need for legal precision had prompted another verbal change. The Announcement had spoken of the progressive realisation of responsible government in India. Since Parliament was not entitled to impose any constitutional enactments on the States India was rightly changed to British India ³

¹ V C Report §§ 200-249

² *Ibid* § 180

³ As pointed out on p. 53 above the Announcement implied that the Government aimed at the ultimate establishment of full responsible government in India as a whole. It was

The main provisions of the constitution established by the Act and the regulations made under it may be summarised as follows.

(1) Eight Provinces (Madras, Bombay, Bengal, the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces and Assam), and subsequently Burma also, took equal rank as Governors' Provinces with the same form of government. Seven other territories (the North-West Frontier Province and Baluchistan and the minor units of Delhi, Coorg, Ajmer Merwara and the Andaman and Nicobar Islands) were left to the charge of Chief Commissioners as agents of the Central Government.

(2) The Provincial Legislative Councils were enlarged—in Bengal, for example, to 139 members, in Madras to 127, in Bombay to 111—and in each of them the elected members numbered not less than 70 per cent, and the official members not more than 20 per cent. At the same time the franchise was extended mainly by lowering the property qualification. The total number of Provincial voters was about 5½ millions. Separate electorates were retained for the Moslems, and the number of seats was apportioned in accordance with the Congress-League agreement of 1916. Despite the contrary recommendation of the Montagu-Chelmsford Report, communal representation was also accorded not only to the Sikhs in the Punjab but to other minorities—to Europeans in all but three Provinces, to Anglo-Indians in two, and to Indian Christians in one.

(3) To give fuller effect to the principle of Provincial self-government, devolution of authority from the Centre to the Provinces was now for the first time given a precise and legal form. The existing division of functions was not substantially altered, but it was clarified and confirmed by lists of Central and Provincial Subjects. Of the former the most important were defence, foreign affairs, relations with the Indian States, communications, customs, commerce and banking, criminal law, census and surveys, and the control of the All-India Services. A further division was made in the Provincial field for the purposes of dyarchy. Law and order (i.e. the departments of justice, jails and police), land-revenue, and in all but one Province forests, were 'reserved' to the charge of the Governor and his Executive Council, which in all save two Provinces now consisted of four members, two British and two Indian.¹ Other subjects, of which the most important were education, agriculture, public health and local government, were 'transferred' to the charge of the Governor acting with his ministers, who, of course, were all Indians. With regard to these 'transferred' subjects the 'powers of superintendence, direction and control',

hoped that the States might some day associate themselves with British India. In that event the Central Government of all India might be responsible to the Central Legislature. But responsible government also requires that the legislature or the stronger part of it should be responsible to the people. Since Parliament could not compel the States either to take part in the Central Government or to be represented in the Central Legislature in any particular manner, the final implications of the Announcement could only be realised with the States' consent. The Announcement was only a declaration of policy, no promise could be given that it would be executed.

¹ In Bihar and Orissa there were only three members, two British and one Indian, and in Burma only two, one British and one Burman.

hitherto exercised by the Government of India and the Secretary of State over the whole field of Provincial administration, were now confined to such intervention as might be necessary to ensure the due administration of Central Subjects to determine questions arising between one Province and another, to safeguard imperial interests and determine the status of India in its inter imperial relations, and to maintain the rights of those members of the civil services who were still to be recruited by the Secretary of State. This withdrawal of control was interpreted by a ruling given by the Speaker of the House of Commons in 1921 to mean that it was not Parliament's business to criticise the administration of the 'transferred' field.¹

(4) As regards finance the allocation of Central and Provincial subjects included sources of revenue—customs and income tax being the major Central source and land revenue the major Provincial source. The Provincial Governments were obliged to make fixed annual contributions to Central funds (and did so till they were relieved of them in 1928). On the other hand, they were now empowered within certain limits, to pass measures of taxation as well as other legislation without obtaining the prior sanction of the Government of India and the Secretary of State. Loans also, which had previously been raised in India only by the Central Government, could now be raised by a Province on the security of Provincial revenues. The distribution of Provincial revenues between the 'reserved' and 'transferred' subjects, failing agreement between the two sides of the Government, was to be determined by the Governor.

(5) Though the Governor of a Province was expected normally to accept his Ministers' advice on 'transferred' subjects, he was not bound to do so, and he retained the right to veto any bill passed by the Provincial legislature or to return it for reconsideration or to reserve it for the consideration of the Central Government, and to forbid the introduction of such bills or amendments as he might 'certify' as affecting 'the safety or tranquility of his or another Province'. If, moreover, the legislature should refuse to pass a financial or other measure required for the administration of a 'reserved' subject the Governor might 'certify' that it was 'essential for the discharge of his responsibility for the subject' in which case it would become law if assented to by the King in Council or in 'a state of emergency' by the Governor General, but, except in the case of 'emergency' measures which could not be delayed, any such measure had to be laid before Parliament and would thus be subject to criticism in either House. Finally, the Governor was empowered to dissolve the legislature at any time or to extend for one year its statutory life of three years.

✓(6) The Central Legislature consisted, as the Report had recommended,

¹ *Hansard*, cxxxviii (1921) 899-902 1147 50 1614 18. See also H. of L. xlv (1921), 377-85. Again in 1937 (H. of C. cccxv 544 ff.) under the Act of 1935 the Prime Minister (Mr. Chamberlain) laid it down that Parliament should not concern itself with anything in the Provincial field (all subjects in which had now been transferred to the charge of Ministers) except as regards a Governor's exercise of his personal responsibilities therein.

of two chambers, but the Report's proposal that the upper chamber should be mainly nominated was set aside. In the event the first Council of State consisted of 60 members, 34 of whom were elected on a high property franchise (20 by general, 10 by Moslem, 3 by European and 1 by Sikh constituencies), 20 were officials, and 6 nominated non-officials. For the Legislative Assembly the Report had recommended indirect election by the Provincial Councils, but the Joint Select Committee had adhered to the traditional British method, and the Act prescribed direct election for both Houses. The first Assembly consisted of 145 members, of whom 104 were elected (52 by general, 30 by Moslem, 9 by European, 7 by landowners, 4 by commercial, and 2 by Sikh constituencies), 26 were officials, and 15 nominated non-officials. The property qualification for voting for election to the Assembly was put at a lower level than that for the Council of State, but it was higher than that required for the Provincial franchise. In 1934 the electorate consisted of roughly 1,416,000 persons.¹ The duration of the Council was to be five years, that of the Assembly three.

(7) Since dyarchy was not introduced at the Centre, the Governor-General's Executive Council would continue to be responsible only to the Secretary of State, and since the majority of the members of the legislature were now elected, provision was made for the enactment of measures in special circumstances without the normal approval of both chambers. A Bill, 'certified' by the Governor-General to be 'essential for the safety, tranquillity or interests of British India or any part thereof', would become law if it were passed by one chamber only or, failing that, by the Governor-General's sole authority, and subsequently communicated to Parliament assented to by the King in Council. If the Governor-General considered it to be justified by 'a state of emergency', he could put such a measure in force forthwith, but it would still be subject to later disallowance in London.

When the Act came into force in 1921, another important change was made at the Centre. Since 1909 the Executive Council had consisted of six British members and one Indian. Now three Indian members were appointed out of the seven.

In February 1921 the Chamber of Princes was established by Royal Proclamation. It consisted of 108 Princes sitting in their own right and 12 elected by the rulers of 127 other States.

✓ From this summary of the 'Montagu-Chelmsford Reforms' two cardinal points stand out. In the first place it was carefully ensured—too carefully it might seem to Indian nationalists—that, while part of the field of Indian government was passing under Indian control, the power of Parliament to fulfil the 'trust' it still held for the good administration of all the rest of the field should be unimpaired. Hence the firm maintenance of the Secretary of State's ultimate control of the Central and 'reserved' subjects.

¹ Women were given the vote for the Assembly, but they numbered less than 82,000 of the total in 1934. It was left to the Provincial legislatures to extend the Provincial franchise to women, and in the course of a few years they all did so.

through the Governor General and the Governors and their Executive Councils. Secondly the transfer of authority in the Provinces to ministers and elected majorities in the legislatures was a genuine instalment of responsible government.

5/ Thus, in act as in word the revolution was effected, the repudiation of parliamentary government was itself repudiated. Most of the affairs of territories peopled by many millions including the affairs which most closely touched their daily life and welfare had been entrusted—in principle at least though not yet fully in practice—to parliaments and their leading representatives therein. In the light of later events one final question may be put. In view of the admitted difficulties of working the British parliamentary system in India why was no alternative method of self government at least considered and discussed. Two answers have already been suggested. First a parliamentary system was the only system of self government hitherto practised in Britain or in the overseas Empire and it was the natural and traditional outcome of the representative government already conceded in India. Second a parliamentary system had been consistently proclaimed to be the goal of Indian nationalists ever since the first Congress declared itself to be the germ of a Native Parliament. And as Burke said. If any ask me what a free government is I answer that for any practical purpose it is what the people think so and that they and not I are the natural lawful and competent judges of the matter. But there is a third answer to the question why no alternative to a parliamentary system was considered at this time. In all the circumstances it was a practical necessity to give the system a trial. For British pride in it as it worked in Britain and the Dominions was notorious and to ask Indians to accept some other system was to suggest that their political capacity was inferior to the British. Unless the parliamentary system had been tried and had failed—and it was sheer pessimism to say in 1919 that it was certain to fail—Indians would not readily be convinced that different forms of government do not necessarily imply a difference in ability to govern and that the value of any government is only to be measured by the extent to which it meets the peculiar needs moral and material of the community concerned.

CHAPTER VI

THE CONSTITUTION OF 1919 IN OPERATION

I THE REVOLT OF THE CONGRESS

Two primary conditions were essential for the successful operation of the Montagu-Chelmsford Reforms. They needed, first, the wholehearted co-operation of all or at least most of the politically-minded Indians to whom their authors had made such a direct and frank appeal. Secondly, they needed time—sufficient time for the new system to get firmly rooted in the minds and habits of the people so that the 'progressive realisation of responsible government' could be earned smoothly and safely to its conclusion. In the event neither of these two needs was met.

The two questions were interlinked, for from the outset Indian co-operation was made more difficult by the difference between Indian and British opinion on the point of time. Most of those British ministers and members of Parliament who had been responsible for the Act of 1919 had no doubt at all that the process it initiated would be lengthy. Even if all went well, many years, it seemed, would pass before, as the result of periodical inquiries, all Provincial subjects were 'transferred', and more years yet before responsible government could be realised at the Centre. This belief that a long period of transition lay ahead was widely held in India also and not only by British officials. Conservative-minded Indians and members of minority groups who had never taken part in the nationalist movement were by no means anxious for too rapid a displacement of British by Indian rule, nor were the Princes yet prepared to contemplate the ultimate implications of the Announcement of 1917. But for the Congress or at least its more ardent members the pace set in 1919 seemed intolerably slow. At the Session of 1918, while it was admitted that the Montagu-Chelmsford proposals constituted 'an advance in some directions', the scheme as a whole was declared to be 'disappointing and unsatisfactory'. The Indian people, it was stoutly asserted, were already ripe for full Provincial self-government. Dyarchy in the Provinces, therefore, would be only tolerated for six years and only if it were also introduced at the Centre forthwith. To clinch the question of speed, 'a statutory guarantee should be given that full responsible government should be established in the whole of British India within a period not exceeding 15 years'.¹

Before the Act of 1919 had been passed the militancy of the majority of Congressmen had been greatly sharpened. Conditions in India at that

¹ *Congress in Evolution*, 20-2

time could scarcely have been more unfavourable for the launching of a new constitution. The war itself had intensified the impatience of Indian nationalists to see their country enjoying the right of self determination on an equal footing with other countries, and in India as elsewhere it had left behind it a sense of weariness and disillusionment and discontent. To make matters worse, nearly three sevenths of the whole population were attacked by the world wide scourge of influenza in 1918-19 and more than six millions died of it. It was in this unhappy and restless atmosphere that Mr. Gandhi, who had now taken the lead of the nationalist movement, set on foot a campaign of passive resistance against the measures taken by the Central Government to deal with 'terrorism'. The upshot was a grave outbreak of disorder in the Punjab and its culmination in the tragedy at Amritsar. The change that had been coming over the temper and purposes of the militant nationalists was now quickened and confirmed. By 1920 the Congress had ceased to be the peaceful and law-abiding body which had welcomed the Morley-Minto reforms and not entirely repudiated the Montagu-Chelmsford scheme. It had become a revolutionary body. In 1920 it resolved that *Swaraj* or self rule must be attained within one year by means of 'non violent non co operation with the existing government as advocated by Mr. Gandhi'. In 1921 a new constitution for the Congress was adopted of which the first article read

The object of the Indian National Congress is the attainment of *Swarajya* by the people of India by all legitimate and peaceful means ¹

The definition of the goal it will be noted, no longer alluded to participation in the British Empire, though it was not expressly ruled out, nor was self rule now to be attained by securing, by 'constitutional' means, the reform of the existing system of government ². What the Congress meant by its new language was made clear enough by its actions. It presently decided not only to abstain from all active co operation with the Government but to disobey the law and especially to refuse the payment of taxes—a decision which might be regarded by those who made it as 'legitimate' in a loose sense of the word, but was certainly not 'constitutional'. It followed, as a matter of course, that the Congress would have nothing to do with the Act of 1919. In the elections held in the autumn of 1920, both for the Central and for the Provincial legislatures, Congressmen took no part. Nor were they only passive. They denounced those of their fellow countrymen who were willing to give the Act a trial as traitors to the national cause, and tried to interfere with the polling. Already, it seemed, they had made up their minds that the only constitution they would accept must be one they framed themselves.

A considerable number of Hindu nationalists, however, refused to follow Mr. Gandhi's lead into revolt. Already, at the end of 1918, a group of 'moderates' had differed so sharply from the attitude of their fellow-

¹ Congress in Evolution, 215

² For the previous constitution, see p. 37 above

Congressmen towards the Montagu-Chelmsford proposals that they had formed a new party, the All-India Moderate Party, later called the National Liberal Federation, which at its first conference, with Mr. Surendra Nath Banerjea in the chair, announced its 'heartly support' of the proposals. It was Hindus of this type who had done most to work the machine of representative government which had taken shape since 1861. From their ranks had been mainly drawn the nominated, the 'recommended', and finally the elected members of the Legislative Councils. They, too, had supplied most of the Indian members of the Executive Councils. With more experience behind them than most of the Congress, they had joined in its approval of the Reforms of 1909, and they were not prepared, ten years later, to abandon the whole process of development on the old 'colonial' lines, now that a new and substantial step along them was proposed. Improvements in the scheme, declared the conference, were necessary, but to condemn and reject it outright was 'ill-advised', and it invited the British Government 'to put the scheme into force without delay'. The breach was widened by the developments of the next few years. For, while the Congress, following Mr. Gandhi's lead, declared a non-violent war on the British Government's whole position and policy in India, the Liberals, responding to the appeal of the Montagu-Chelmsford Report, set themselves to make the most of the Act of 1919 and ensure that the next advance should be as long and come as soon as possible.

In all nationalist movements there have been 'extremists' and 'moderates', and the former have always denounced the latter for lack of patriotism. But so far the difference between the Indian Liberals and Mr. Gandhi's followers was not a difference of principle. The Liberals desired no less keenly the attainment of full self government in India, and, if they held that this was possible within the orbit of the British Commonwealth, the Congress had not yet positively stated that *Swaraj* meant a clean cut away from the British connexion. The Liberals, in fact, only differed from the Congress in thinking that Reform was a better path to their common goal than Revolution, and they could claim that their secession from it was not an inconsistent, still less a reactionary, move since it was Mr. Gandhi, not they, who had renounced the policy which Congress had followed since its birth. One of the ablest of the Liberals, Sir C. Y. Chintamani, who served as Minister for Education in the United Provinces from 1921 to 1923, has spoken for them all in the following passage of a recently published book.²

I was a Congressman for twenty years and have been a Liberal for seventeen. In the latter period I have not once been conscious of uttering an opinion or doing an act which I had not, or would not have, uttered or done in my Congress days. . . If Liberals to-day are not members of the Congress, they are still Congressmen in the sense in which they were, and that is enough for them.

¹ Resolutions of Bombay Conference, November 1 and 2, 1918.

² *Indian Politics since the Mutiny* (London, 1940), 126-7

✓ II THE WORKING OF DYARCHY

In so far as the great Hindu majority of the Indian people was concerned it was entirely due to these Liberals that the Act of 1919 operated at all. They joined in the elections of 1920, they took office as Ministers in most of the Provincial Governments, and throughout the period of its operation (1921 to 1937) they did their best to make dyarchy work. At the outset their task was lightened by a temporary decline in the influence of the Congress in the country at large. By 1922 the non co operation movement had spent its force. In the spring of that year the danger of preaching civil disobedience however non violent in India was grimly exhibited by the barbarous killing of twenty Indian policemen in the United Provinces and some weeks later Mr Gandhi was arrested and sentenced to imprisonment for six years. (He was released in 1924 on grounds of health.) In the ranks of the Congress however in which Mr C R Das now took the lead antagonism to the new regime had by no means weakened. In 1923, the majority resolved after hot dispute to stand at the forthcoming elections to the second Councils not indeed with a view to working the constitution but in order to destroy it from within. In every Province except Madras the Swarajists as they now called themselves obtained a considerable number of seats on the Councils and in two of them Bengal and the Central Provinces they were in sufficient force to prevent the voting of supplies including Ministers salaries. The Governors of those two Provinces were thus compelled to suspend dyarchy and resume control of the transferred subjects. It was more than two years before this deadlock was overcome and in the Central Provinces the constitution had to be again suspended a few years later.

Since these were the only achievements of the Congress destructive policy dyarchy can be said to have been given a chance. And yet it failed to realise its authors' hopes. It was not a mechanical failure. Clumsy as it was the machine of dual government proved workable. Ministers and Executive Councillors duly performed their allotted tasks, and on the whole the relations between them were loyal and harmonious. Nor was dyarchy a failure in administrative or legislative achievement in the transferred fields. Ministers showed that politicians with the aid of an efficient civil service—and the fidelity of the British civilians in the secretariats to their new masters was admitted—can sometimes make good administrators and a

¹ In Madras where the emergence of the non Brahmin Justice Party with a consistent anti Brahmin policy involved a closer approximation than was to be found elsewhere to the two-Party system and where consequently the dyarchic principle should have had a better chance of working as its authors intended the Governor (Lord Willingdon) decided to ignore the provisions of the Act and to treat his Executive Council and Ministers collectively as a unitary cabinet. So did Lord Lytton in Bengal and to a less thorough going extent the same policy was adopted by Sir Harcourt Butler during the first two years of the life of the first Council in the United Provinces. But though this policy was naturally welcomed by Indian politicians and made for greater harmony in the conduct of business it did not in fact provide the training in ministerial responsibility which had been the main object of the Act of 1919 since it necessarily blurred the distinction between ministers who were responsible to the Council and Executive Councillors who were not.

number of valuable measures were passed into law. The system of local government, for instance, was readjusted on a broader franchise and with wider functions by the Bombay Local Boards Act, 1923, and by the Calcutta Municipal Act, 1923. The Madras Religious Endowments Act, 1926, was a bold treatment of a highly controversial question, involving old-established vested interests. Equally bold was the encouragement of industrial development by public funds and credits under the Madras State Aid to Industries Act, 1923. The Bombay Primary Education Act, 1923, extended the principle of compulsory primary education from the municipalities to the rural areas and empowered the Provincial Government to enforce compulsory primary education on a local authority which did not introduce it of its own accord. The Bihar and Orissa Village Administration Act, 1923, was an attempt to vitalise village self-government by setting up boards to deal with the common local concerns of groups of villages and by regulating the appointment and powers of *panchayats*. These are only examples: similar legislation was promoted and carried through by Ministers in all or most of the Provinces.

Where dyarchy failed was in the primary purpose which its authors intended it to serve. It did not provide a real training in responsible government.

Little progress was made, in the first place, in the political education of the electorate, more especially in the rural areas. The villagers were induced to cast a large number of votes, but they could scarcely be said to understand what that meant. This was less their fault than that of the politicians. The Liberals loyally adhered to the principles of the Montagu-Chelmsford Report, but they failed to build up a coherent and effective party. They did not possess the organisation, or the funds, or the personnel to operate in the country at large, and they tended to split up into shifting groups with various names. The other groups were mostly communal and therefore, in so far as they were parties at all, they were the kind of party whose very existence, as the reformers of 1919 had made plain, contradicted their democratic doctrine and worked against its understanding and fulfilment. The only real or powerful party was the Swarajist Party, under which name the Congress was now fighting, and the Swarajists, so far from trying to make a success of the new régime, were out to destroy it. Their candidates did not set themselves to teach the masses of Indian peasantry the grammar of democracy, nor did they ask them to exercise their judgment on matters directly affecting their daily lives. They preached a revolution, gilded with promises of the new age of rural prosperity which would dawn if the existing constitution were swept away and with it the last vestiges of British rule. For these reasons, except, as will be seen, in one Province, no party-system was established. there were no clean-cut electoral conflicts on issues on which the villagers were qualified to form their own opinions, no choice between rival programmes for the betterment of their lives. That being so, it is not to be wondered

at if most of the Indian voters regarded the elections either as a new-fangled piece of official routine or as a purely personal question to be decided on anything rather than real political grounds

Too much however need not be made of this aspect of the situation. No one had expected the ignorant masses of countryfolk to assimilate the meaning and methods of democracy easily or quickly. The primary purpose of the Act of 1919 was to establish the principle of responsible government in the Provincial Councils and it was primarily by the extent to which it achieved that purpose that its success or failure must be judged. An essential condition of success was the development of a party system and in one Province that condition was fulfilled. In Madras the non-Brahmin Hindus united in the Justice Party to challenge the old established supremacy of the Brahmin oligarchy and the result was a straight parliamentary conflict on domestic issues between so to speak a party of the Left and a party of the Right. But elsewhere the lack of organised parties or programmes other than the Swarajist, was as detrimental to the working of the Councils as it was in the elections. For Ministers were not supported by steady majorities pledged to back them as their party leaders and to see their measures through. More and more indeed they could only get their way and keep in office with the help of the votes of their official colleagues on the reserved side. Inevitably therefore the line of dyarchy division was blurred, and with it the fixing of responsibility. The result was something like a throwback to the Morley Minto period. The Government came to be regarded as virtually one Government. Ministers as Government men like the Indian members of the Executive Council before 1919 and the legislature itself not as the ally and at need the master of the Government in the transferred field but as in the old irresponsible days its permanent opponent. This distortion of dyarchy was aggravated by a tendency to concentrate attack on the administration of the reserved field, in which especially on grave questions of law and order Ministers for the most part felt bound to support their official colleagues and it was one of the many misfortunes which overshadowed the initiation of the new constitution that the post war economic depression made it impossible for Ministers to embark on such wide schemes of social welfare as might have captured the imagination of the Councils diverted their attention from the reserved to the transferred field and won from them something more than the mixture of fluctuating support and open opposition which was all that in fact they got. The Swarajist charge that the nation building departments were deliberately starved in favour of the reserved side is untrue. Expenditure even on police was vigorously cut down and even when the Provinces were relieved of their contributions to the Central Government the money for large scale development—in so vital a matter for instance as popular education—was simply not available nor in those hard times could it be obtained by a heavy increase in taxation.

So dyarchy failed to do what it was primarily meant to do. But that is not to say that it should never have been put to the test. It had been decided to make a trial of parliamentary government, and in a limited but by no means negligible field of policy and administration dyarchy provided the opportunity for beginning that trial. That better use was not made of it was not its authors' fault.

III THE COMMUNAL SCHISM

More serious on a long view than the failure of the Act of 1919 to make a reality of responsible government was its failure to overcome the barriers of caste and creed. It was on that issue that the Montagu Chelmsford Report had addressed its most earnest appeals to Indian patriotism and common sense, and it would be unfair to say that there was no response. As regards the caste-system, for example, Mr. Gandhi's persistent championship of the claims of the 'out-castes' has been one of the most notable features of his political career. Nor, of course, was any responsible politician of either faith unaware of the menace of Hindu Moslem antagonism to the peace and political aspirations of India. Leaders of both communities were continually preaching the cause of national unity. But their efforts were unavailing. In 1928 the gulf was no narrower than it had been in 1918: it was wider.

Already in 1918 it seemed as if the concordat established two years earlier had begun to weaken. The more conservative Moslem politicians had taken no part in the co-operative effort which had produced the Congress-League Scheme, and in 1918 they formed a new All-India Muslim Association in opposition to Mr. Jinnah's party. In a memorandum drafted in November 1918, the Council of the Association charged Mr. Jinnah with breaking away from the decision taken by the Council of the League in 1913 and identifying himself with the Congress demand for 'colonial self-government'.¹ At the same time the memorandum warmly approved the Montagu-Chelmsford Report, asked for its early implementation, and welcomed the prospect of further periodical advances. It only differed from the Report with regard to its condemnation of the principle of separate electorates and to the extent of the Moslem representation it contemplated in the various elected bodies. The memorandum seems, therefore, to betray a certain confusion of thought. The definition of the ultimate objective as 'colonial self government' had been repudiated only because it seemed to imply a parliamentary system. Yet the whole basis of the Report was its acceptance of parliamentary government in accordance with the Announcement of 1917.²

If Moslem opinion in India had not been affected by events elsewhere, it seems probable that this anti-Congress move on the Moslem Right would have gathered strength when Mr. Gandhi raised the standard of revolt in 1919-20. For the great body of Moslems had so far held strictly aloof from

¹ See pp. 46-7 above.

² *Memorandum by the All India Muslim Association, 1918* [Cmd. 123] 1919, pp. 123-7.

'extremist agitation. But one of the results of the war as it happened was the creation of such an opportunity as Mr Gandhi put it of uniting Hindus and Muhammadans as would not arise in a hundred years.' The entry of the Turkish Empire into the war on the German side had been an awkward matter for the British and Indian Governments since the Sultan of Turkey was the Caliph or supreme head of the Moslem world. Indian Moslems however had fought bravely against the Turks and it was not till Turkey had been defeated and rumours of the severity of the peace terms to be imposed on her had begun to spread that an anti-British group headed by the brothers Muhammad and Shaukat Ali succeeded in rousing a formidable agitation among Indian Moslems. In that troubled winter of 1919-20 the cry was raised that Islam was in danger and that unless the Turkish Empire was restored to all its pre-war power, Britain would stand condemned as Islam's arch-enemy. With this so-called Caliphate Movement Mr Gandhi decided to make common cause and despite some hesitation in Hindu circles he carried the Congress with him. It was in the first instance to right the Caliphate wrong that the non-cooperation campaign of 1920 was launched and for many months Congressmen and Moslems worked side by side if not for a common constructive policy of Indian advance at least in a common antagonism to British rule. While however this alliance was still in force a blow was struck at it by an outbreak of ferocious violence among the Moplahs, a fanatical Moslem peasant folk in south-west India. In the summer of 1921 inflamed by the Caliphate agitation they rose not only against the Government but against their Hindu neighbours. Wholesale murder and forcible conversion recalled a time that was now almost forgotten and it was only after much bloodshed and destruction that the rising was suppressed. It was left to the Turks however to disrupt the Hindu Moslem alliance. The rise of Ataturk, the victory over Greece, the new Treaty of Lausanne and the establishment of a strong, self-confident and secular Turkish Republic nullified the whole basis of the pan-Islamic crusade in India. The arrest, trial and imprisonment of the brothers Ali in the autumn of 1921 marked the end of the movement and with it closed the prospect of agreement between the Congress and the great majority of Moslems.²

It was not merely as a reaction from an opportunist and unconstructive alliance that the breach began again to widen after 1922. The cause of it lay at the heart of the new constitutional system. Dyarchy might not work very well but its meaning was plain. Indian ministers Hindu and Moslem now had real executive power in their field. They were not responsible for its exercise to the old neutral British authority but to Indian politicians in the Councils. And the old official bloc, as it had been called, the compact body of officials mostly British which had exer-

Moral and Material Progress of India No. 3, 1922, p. 36.

Any renewal of the movement was precluded by the Turks' abolition of the Caliphate in 1924.

cised a kind of arbitral influence on the Council's proceedings in the past, had not only been reduced in numbers it had lost something of its neutrality by being yoked with ministers whose policy it was expected normally to support. Dyarchy, moreover, was on the face of it a transitional system, and from the moment of its birth the Hindus were demanding that the process it had initiated must be speeded up so that British rule, 'at the Centre as well as in the Provinces, might quickly be replaced by Indian rule

It might have seemed at first sight as if Moslem opinion had acquiesced in this prospect of *Swaraj*. In so far, indeed, as it was organised and vocal, it did acquiesce. No further protest against the colonial model was raised on the Right. The All-India Muslim Association faded out of the picture. The Moslem delegates, including Mr Jinnah, who appeared before the Joint Select Committee on the bill in 1919, accepted it in principle. They insisted on the retention of separate electorates, but otherwise their attitude was much the same as that of the Hindu Liberals: the bill was not enough, but it could be used for getting more. In 1919, as has been seen, the Moslem League went further. It identified itself with Mr. Gandhi's revolutionary policy. It was virtually merged in the Congress. It did not meet—so it is recorded—as a separate body between 1919 and 1924.¹ And, when it did meet in the spring of 1924 at Lahore, with Mr. Jinnah in the chair, it insisted as vehemently as the Congress on an immediate and far-reaching constitutional advance. The Government, said Mr. Jinnah, must meet 'the universal demand'

that immediate steps must be taken to scrap the present constitution and devise a constitution in consultation with the representatives of the people which will give them a real control and responsibility over their affairs . . . and enable them to stand as free people under full-fledged Dominion responsible government amongst the ranks of the nations of the world.

A resolution carried at this meeting of the League laid down six 'basic principles' of *Swaraj*. Four of them dealt with minority safeguards. Joint electorates were once again rejected in favour of separate electorates, and the old 'three-fourths' rule was re-affirmed.² But the first two 'principles' were new and significant.

The existing Provinces of India shall all be united under a common Government on a federal basis so that each Province shall have full and complete Provincial Autonomy, the functions of the Central Government being confined to such matters only as are of general and common concern.

Any territorial redistribution that might at any time become necessary shall not in any way affect the Moslem majority of population in the Punjab, Bengal and the North-West Frontier Province.

This was the first clear Indian response to the suggestion, tentatively advanced in the Montagu-Chelmsford Report, that the constitution of a self-governing India should be federal, and it showed that the Moslems had

¹ *Indian Quarterly Register*, vol 1, no 2

² See p. 46 above.

recognised the value of the federal principle in the treatment of minority questions. The weight of the Hindu majority at the Centre, on the one hand, would be mitigated if the government ceased to be unitary and was only concerned with federal subjects. Wider Provincial powers, on the other hand, would strengthen the position of the Moslems in the three Provinces in which they were in a majority.

It was also significant that the League defined *Suvaraj* as equivalent to Dominion Status, whereas the Congress had not committed itself to India's continued participation in the British Empire. But more important was the League's complete acceptance, subject to the six 'principles', of the parliamentary system. Its decision in 1913 had been forgotten.¹ The old distrust of the colonial model was voiced only by one Moslem leader. At the time of the League Meeting in 1924 as it happened, the Central Government was inviting opinions as to the demand for a further constitutional change, and from Mr. A. K. Fazlul Haq, who served as Education Minister in Bengal in 1924, it received an uncompromising reply:

My experience of the last few years [he wrote] of the political developments in India has convinced me that the declaration of the Imperial Government in Parliament in August 1917 was a great mistake. Representative institutions have been thrust upon India although there can be no doubt that representative institutions, as they are known in the West are utterly unsuited to Indian conditions. You can no more expect representative institutions to flourish in their proper form in India than you can expect not house flowers to blossom in the icy cold of the North.²

This recalls Morley's language about fur coats in the Deccan but it was not echoed by other Moslems. To all appearance the two great communities were agreed in thinking that the future government of India should be parliamentary.

Unhappily, however, that agreement, such as it was did not mean a softening of the old antagonism. On the contrary, the prospect of parliamentary government rapidly expanding from its dyarchic limits to a nation-wide scale embittered it. Those who watched the course of Indian politics at this time, however much they may have sympathised with nationalist aspirations, could not fail to see that a struggle for power had begun. An alarming symptom was the campaigns set on foot by hot heads on both sides to 'reconvert' groups of Moslems and Hindus who were said to have lapsed from their faith. Still more ominous was the recrudescence of large scale rioting. From 1922 onwards the number of serious Hindu Moslem riots rose steeply. There were 11 in 1923, 18 in 1924, 16 in 1925, 35 in 1926, and 31 up to November 1927. The death roll for those five years was about 450 and at least 5,000 people were injured. The worst outbreak was in Calcutta in the spring of 1926. It lasted for more than a fortnight. No fewer than 67 persons lost their lives, and nearly

¹ See pp. 46-7 above.

² July 5, 1924—*Reforms Enquiry Committee: Views of Local Governments*, Cmd. 2362, 150-1.

400 were hurt. Much property was damaged by arson and looting. On that occasion, as on several others in this period, order was only restored by the use of troops.¹

This black record was a sorry commentary on the hopes and appeals of 1918. If the new regime had failed to provide a training in responsible government, it had failed even more completely to assuage the bitterness of Hindu-Moslem strife by holding out the prospect of India's national freedom. That very prospect had in fact intensified it. It had provoked a preliminary struggle for place and power. If nothing could be done to mitigate the feud, if the breach grew wider still, then obviously the 'faith' of 1918 would prove to have been a pious illusion and the vision of Indian nationhood a passing dream. If proof were needed that such an outcome would be deplored as much by British as by Indian public opinion it was furnished by the appeal which Lord Irwin made to the Hindu and Moslem leaders soon after his arrival on the Indian scene as Viceroy. In unprecedentedly frank and earnest language he besought them 'to rescue the good name of India from the hurt which their present discords inflict upon it'.

✓ In the name of Indian national life, in the name of religion, I appeal to all in each of the two communities who hold position, who represent them in the press, who direct the education of the young, who possess influence, who command the esteem of their co-religionists, who lead them in politics or are honoured by them as divines. I appeal in the name of national life because communal tension is eating into it as a canker. It has suspended its activities. It has ranged its component parts into opposite and hostile camps.

No one questions that Indian leaders were impressed by Lord Irwin's manifest sincerity, nor that they did what they could in response to his appeal. But the result was negligible. The speech was delivered on July 17, 1926. In the course of the next six weeks there were five serious riots. On August 29, Lord Irwin was even more outspoken in his opening address to the Indian Legislature. After alluding to some of the worst of the recent disorders and 'that abyss of unchained human passions that lies too often beneath the surface of habit and law',

✓ Nothing wholesome [he said] can flourish in unwholesome soil, and no one may hope to build a house to stand against the wind and the rain and the storms of life upon foundations that are rotten and unsound.

✓ This second appeal was as ineffective as the first. All through the following winter the outbreaks of mob-violence continued. Over thirty people were killed and over 200 injured between August and March.

IV THE CENTRE

The Swarajists maintained that the increase of Hindu-Moslem tension was not due to the prospect of full self-government in India but to the

¹ A detailed list of the riots is given in *Indian Statutory Commission*, vol. IV, pt. 1, 108-20.

fact that it was only a prospect and not a reality. Remove all British control they argued and Hindus and Moslems would have no difficulty in coming to terms. They continued therefore to concentrate their forces not on the field in which self government had been conceded in 1919 but on that in which it was still withheld. Thus just as in the Provinces it was the 'reserved' rather than the transferred field that attracted attention so it was not in the Provinces but at the Centre that nationalism was most active. Most of the ablest politicians gravitated to the Centre and the new Legislative Assembly soon became the principal arena of Indian politics.

The result was not in itself discouraging. In the dignity and orderliness of its proceedings and in the intellectual level of its debates the Assembly proved itself at least the equal of older parliaments. Nor were its relations with the Government even after the Swarajists entered it in 1923 so strained as in some of the Provinces. A substantial body of useful legislation—such as the Workmen's Compensation Act 1923 the Criminal Law Amendment Act 1923 the Cantonments Act 1924 the Indian Trade Unions Act 1926 the Indian Bai Councils Act 1926 the Child Marriage Act 1929 and the Factories Act 1934—was passed by agreement between executive and legislature. Violent speeches were made from time to time on the Left but the spokesmen of the Government were usually heard with patience and often with assent. Between 1921 and 1937 the Viceroy used his overriding powers of certification only ten times.

Yet if the Assembly showed itself possessed of some of the essential qualities of a parliament it was even less like its prototype at Westminster than the Provincial Councils. When the members of the Simon Commission attended its debates in 1928-9 they were more impressed by its differences from than by its resemblance to the Parliament to which they themselves belonged.¹ One main point of difference was as in the Provinces the lack of a party system. The basis of the various groups was not political in the ordinary sense but communal. Even the Swarajist Party had failed to obliterate the line of communal division. Moslems with Mr Jinnah at their head demanded *Swaraj* as vehemently as their Hindu allies but at the elections of 1926 they gained their seats not as Swarajists but as Moslems. The chief point of difference from Westminster however was the inevitable difference arising from the fact that government at the Centre was still only representative and not responsible. The majority was not behind the Government it constituted a permanent Opposition. Nor was it primarily concerned with carrying the laws it wanted or trying to control the current administration of the country its dominant purpose was to change the constitution to obtain without delay the full self government towards which the Act of 1919 to judge from its orators denunciations had made an almost imperceptible advance. Indeed the Liberals who dominated the first Assembly were hardly in their seats before they

¹ *Simon Report* II 7 cf I 29.

began to press for a quick advance upon the Act. Aware that the intelligentsia, especially its younger members, preferred the more full-blooded creed of the Congress to theirs, they virtually adopted the Swarajist programme, and, in the autumn of 1921, when the Act had been only some six months in operation, they prepared to submit a motion asking for the appointment of a committee to consider the means of completing responsible government in the Provinces and introducing it at the Centre.

It was an embarrassing situation for the Central Government, then headed by Lord Reading. The Joint Select Committee had underlined the clause in the Act providing for the appointment of the Commission to examine its working after ten years, and urged that 'no changes of substance' should be made in the interval.¹ But the position at the Centre was now very different from what it had been before 1919. The Government, with three Indian members now instead of one, were confronted for the first time by a large elected majority in the legislature. They were the more anxious, moreover, to reconcile the Liberals because the Swarajists seemed irreconcilable, and they were bent on proving that the policy of 1917 was genuine. They therefore arranged a compromise, and a motion was carried, which they did not oppose, 'that the progress made by India on the path of responsible government warrants a re-examination and revision of the constitution at an earlier date than 1929'. From this opinion the Secretary of State (Lord Peel) dissented, but he pointed out that minor changes could be made without amendment of the Act of 1919 by the use of the rule-making power it provided. In 1923 the Assembly called for action on these lines, but in 1924, stiffened by the entry of the Swarajists at the recent elections, it reverted to the demand for a revision of the Act. A Round Table Conference should be summoned, it declared, 'to recommend a constitution for a fully self-governing India with Dominion Status within the Empire, this scheme to be considered by the Indian Legislature and, if approved by it, submitted to the British Parliament for enactment'. For a time the British Government resisted this assault. It acquiesced in the appointment of the Muddiman Committee in 1924 to try out the possibilities of rule-making, but the Labour Secretary of State (Lord Olivier) declared as firmly as his Conservative predecessor that Parliament could not consider amending the Act until full inquiry had made a case for it. Some of the recommendations of the Muddiman Committee were acted on, but this was, and could be, no more than tinkering. And then in the autumn of 1927, two years before the ten-year period prescribed by the Act was due to expire, Lord Olivier's successor, Lord Birkenhead, carried an amending Act enabling the machinery of inquiry to be set in motion without further delay. In November, accordingly, the Statutory Commission, better known from its chairman's name as the Simon Commission, was appointed.

From that moment the Constitution of 1919 was generally regarded as

¹ Report, II.

moribund, let it lived on longer than was expected. The consideration of a further advance was so intensive and protracted that a new Act was not passed till 1935. And even then for reasons that will be given in due course, it was mainly in the Provinces that the new constitution came into force in 1937. The part of the Act which created a new Centre remained inoperative, with the result that to day the legal structure of the Centre is still much the same as it was under the constitution of 1919. And it may be said to have fulfilled its authors' purposes better at the Centre than in the Provinces. It had accustomed Indian politicians to envisage problems on a British Indian scale. It had fostered a sense of nationhood. And by establishing a large measure of representative government it had taken the first step and a long one in carrying out the policy of 1917. If it strengthened the tendency to regard the British parliamentary system as the inevitable goal at the Centre as well as in the Provinces that was entirely in accord with the faith of the Montagu Chelmsford Report.

CHAPTER VII

SWARAJ AND DOMINION STATUS

I THE NEW NATIONALISM

To describe the working of the Reforms of 1919, as attempted in the last chapter, is to paint only half the political picture. For the most vigorous elements of Indian nationalism, as has been seen, took no hand in the operation of the Act. If they entered the constitutional power house, it was only with the object of trying to put the machinery out of gear. The nationalist movement—or at least its major forces—had assumed from 1920 onwards quite a new complexion. The majority of the Congress, which not so long ago under Mr. Gokhale's lead had been the British Government's ally, had become under Mr. Gandhi's lead its enemy. When Parliament had at last declared its intention of setting India free, it was told it was too late. India would free herself. And this new attitude was associated with a bitter attack on Britain and her record in India and elsewhere. India, said Mr. Gandhi in effect, must turn her back on the West: she had nothing to gain by contact with its gross materialism: she must find her soul again in the simple self-sustaining life of the Indian countryside.

This great change in the attitude of Indian nationalism could not fail to affect British opinion. To the supporters of Mr. Montagu (who died in 1924) it came as a direct rebuff. The sincerity of the pledge of 1917 was questioned, the plan for carrying it out derided. In more conservative minds it revived all the old doubts about parliamentary government in India. To some the sudden surrender of 1917 now seemed to have been over-hasty. Others were confirmed in their belief that the development of a real parliamentary system must be a gradual and very lengthy operation. This last point of view was expressed with his usual incisiveness by Lord Balfour in the House of Lords in 1924. He did not go back on the decisions of 1917 to 1919. Nothing had happened, he declared, to make him regret the experiment then initiated. Nor would he despair of its ultimate success. 'All I can say is that it is perfect folly to suppose that the result can be immediately attained.' The Swarajists, he pointed out, had no constructive policy. They were content with the assertion that India could make the same 'safe and happy' advance to freedom as the Dominions if only Britain would not hold her back. But that, he argued, was an illusion. Nor was it a question of superior or inferior capacity. It was absurd to suggest that India, the cradle of great religions and of a civilisation 'compared with which ours is contemptible in point of date',

was inferior to Britain. But we are different. And institutions cannot easily be imported as you import a new locomotive from one civilisation into another.

Free institutions [he continued] on the British model or on the Dominion model are among the most difficult institutions in the world to manage properly. Free government is very difficult government. The easy government is the government of an absolute autocracy. The notion appears to be that, if you leave India alone, India will at one stride—taking an example from Great Britain from the great British Dominions from the United States of America from other great free and self governing communities—join their ranks as a natural equal. That is entirely to ignore the teaching of history.¹

But Mr Gandhi's followers were not disposed to listen as Mr Gokhale's might have listened to a lecture however thoughtful and well meant from any British statesman. For the impact of the war and of the tremendous impulses it had set running through the world had shaken the younger generation in India quite out of their fathers' attitude of acquiescence in a steady advance along British lines and guided by British experience. They still wanted parliamentary self government; it is true despite Mr Gandhi's insistence on Indian ways of life but they wanted it at once. And it is easy enough to understand their impatience. They were demanding a right which Englishmen had always taken for granted—to stand on an equal footing with other men in the world. In politics as in everything else equality is not a matter of degree; it is a case of all or nothing, and it would have been asking much of human nature to expect a young educated Indian to be content with the progressive process with the knowledge that if indeed Britain's declared intentions were sincere—and he questioned that—his son or his grandson might one day be accorded an equal footing with a citizen of Britain or China or Brazil.

This claim to equality must have been made sooner or later in any case but the war and the peace had forced it to the front. Like a searchlight playing over the whole structure of international society the war had shown up the strength or weakness the independence or dependence of its component states and had thus intensified the educated Indian's feelings of humiliation and resentment at the inferior status which despite its size and its historic past and ancient civilisation was allotted to his country. The peace moreover had been avowedly based on the principle of national self-determination. It was agreed apparently that nations had a right to follow their own path in the world; *in fortiori* they must have the right to frame their own form of government. Nor was the new nationalism afire in Europe only. Asiatic nations were soon vigorously asserting a new found freedom. The young Chinese Republic was fighting a winning battle with the Western Powers over the unequal treaties. In the Near and Middle East Iraq like Egypt was declaring its sovereign independence and looking forward to admission to the League of Nations.

¹ Hansard H of L. IV (1924) 416-23

In Syria and Palestine Arab nationalists were demanding the same status. In the heart of the desert the independent kingdom of Saudi Arabia was taking solid shape. Nearer home, Afghanistan had proved its freedom by fighting a short and not unsuccessful war with Britain. With all this happening around him it needed a cool-headed Indian patriot to ask himself whether India was yet really a nation, sufficiently at one within itself to exercise as a single great society the rights of nationhood. To young and eager Swarajists—and there were Moslems among them as well as Hindus—freedom and unity seemed to go together. The difficulties of achieving nationhood had been aggravated by British interference. They could only be surmounted if Indians were free to deal with them themselves.

II THE NEW NATIONAL STATUS

It is sometimes overlooked that the position established in 1919 was not static. Apart from the increasing pressure of the Assembly and the Councils on their Governments and the increasing tendency of those Governments to be 'responsive to it, a twofold process was going on outside the legislatures which might be described as anticipating or preparing the way for the national freedom foreshadowed in the Announcement of 1917.

Steps were taken, in the first place, towards equipping India with the national civil and military services she would one day need. The vast majority of officials in India had always been enlisted in the so-called Provincial Services, which had always consisted almost wholly of Indians. The question of 'Indianisation', therefore, only applied to the All-India and Central Services, and in 1924 a Royal Commission, consisting of four Indians and four Englishmen with Lord Lee as chairman, unanimously recommended (1) that recruitment should be so adjusted as to ensure that the Indian Civil Service would become half Indian after fifteen years and the Indian Police Service half Indian after twenty-five years; (2) that the other All-India Services, concerned as they were with the 'transferred' field of administration, should likewise be transferred from the control of the Secretary of State to that of the Provincial Governments which meant, broadly speaking, that no more British officials would be recruited for them.¹ These recommendations were accepted and implemented. In 1924 the Indian members of the ICS numbered about 17 per cent. there are now 597 Indian members and 588 British. In 1924 the proportion of Indians in the Indian Police Service was 11.2 per cent. there are now 186 Indian members of it as against 422 British. The door to the highest posts, moreover, was opened more widely after 1919 than after 1909. All the larger Provincial Executive Councils now contained two Indian members. To the Governor-General's Council Morle had appointed one Indian; Montagu, as has been noted, appointed three out of a total of seven or eight. To go yet higher, Sir Satyendra Sinha was

¹ Report of the Royal Commission on the Superior Civil Services in India, 1924: Cmd. 2195.

raised to the peerage in 1919 and made Parliamentary Under Secretary of State for India and in 1920 he returned to India to become till the break down of his health in 1921 the first Governor of the new Province of Bihar and Orissa

At the same time a beginning was made with the lengthier process of providing the Indian army with Indian officers—lengthier because in 1917 there were no fully commissioned Indian officers and it takes many years for a subaltern^o to become qualified to be a general. In 1918 Indians were made eligible for the King's commission and ten places were reserved for their training at Sandhurst. In 1923 a scheme was launched known as the eight units scheme which aimed at building up five infantry battalions, two cavalry regiments and one pioneer unit entirely officered by Indians. In 1927, the number of places reserved for training Indians at Sandhurst was doubled and places were also reserved at Woolwich and Cranwell. In 1931 the eight units scheme was expanded to the equivalent of one division and one cavalry brigade with ancillary troops. In 1934 an Indian Sandhurst was opened at Dehra Dun.

These measures for equipping India with a national civil service and a national army could only be steps in a gradual process, and more striking as an anticipation of India's coming nationhood because more immediate in its effects was the new status accorded to India in her relations with the rest of the world. In fact, of course, she was not yet an independent nation. Her foreign policy was still controlled by a Government dominantly British in personnel and responsible to the British Parliament. But she was now given an international personality and position which in form were almost the same as those of the Dominions. At the Imperial War Conference of 1917 a resolution moved by the Prime Minister of Canada, was adopted which associated India with the Dominions in the readjustment of inter imperial relations to be considered after the war.

Any such readjustment should be based on a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth and of India as an important part of the same should recognise the right of the Dominions and India to an adequate voice in foreign policy and in foreign relations and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern and for such necessary concerted action founded on consultation as the several Governments may determine.¹

It was also resolved to amend the previous resolution of 1907 concerning membership of the Conference to the British and Dominion Governments so that India might be fully represented at all Imperial Conferences in the future. From 1918 onwards accordingly India was represented at all Imperial Conferences not only by the Secretary of State but by delegates from India all of whom were Indians and one usually from the

¹ *Proceedings of Imperial War Conference 1917* [Cmd 8066] 40-49-50. The references to India were an amendment moved by Sir Satyendra Sinha and promptly accepted by Sir Robert Borden.

Indian States In 1918 an Indian statesman, Sir S. Sinha, and an Indian Prince, the Maharajah of Bikaner, sat in the Imperial War Cabinet. After the war, moreover, the contribution which the British Exchequer had made since 1901¹ towards the cost of the India Office was trebled, so as to cover the salaries of all officials employed on administrative work as distinct from the 'agency' functions, mainly economic, performed on behalf of the Government of India, and most of those functions were transferred to a High Commissioner for India. India House presently took its place in London beside the national headquarters of Canada and the other Dominions.

Still more remarkable than this new Indian status in inter-imperial relations was the new status which it carried with it in international relations. The representatives of India, like those of the Dominions, went to Paris as members of the British Empire delegation, sat in their own right at the Peace Conference, and signed the Treaty of Versailles on behalf of India. Thus India separately subscribed to the Covenant and became a separate member of the League of Nations—an interesting anomaly, since all the other initial members of the League were, and all future members were bound by the Covenant to be, 'fully self-governing'.² Thenceforward the representatives of India, most of whom were Indians, not only took their place in British Empire delegations at such international conferences outside the orbit of the League as those at Washington in 1921 and at Genoa in 1922, they also shared in the work of the Assembly at Geneva and in the various departments, conferences and committees organised by the League. As one of the eight leading industrial countries, India obtained a permanent seat on the governing body of the International Labour Office, and in 1927 an Indian, Sir Atul Chatterjee, was elected president of the Labour Conference.

Committed as they were to the demand for immediate *Swaraj*, the nationalists of the Congress made light of all these preparatory steps. They boycotted the Lee Commission: the personnel and conditions of the civil service, they said, must be under wholly Indian control. They denounced the schemes for Indianising the army as being so tentative and slow in operation as to be manifestly insincere. And they dismissed the new status accorded to India in inter-imperial and international relations as camouflage intended to disguise under forms the harsh fact of India's subordination to Britain. But the new status was really something more than a matter of form. It is true that the Indian delegates at Geneva were appointed by the Secretary of State after full consultation with the Government of India and that on crucial matters of foreign policy neither the Indian delegates nor the Government of India could prevail against the British Government; but it was at inter-imperial consultations, not at Geneva, that such matters were discussed and settled, and at the

¹ Up to 1901 the entire cost of the India Office had been charged to Indian revenues.

² Art. I, par. 2. The Dominions were fully self governing in fact in 1919, though not yet in form.

Conference the Indian delegates were as free as those of the Dominions to explain and press home their national point of view. In one respect, indeed, India's position was stronger than that of a Dominion, since in the Secretary of State for India she had a spokesman in the British Cabinet with an authority to speak for India such as the Dominions Secretary did not possess for a Dominion. On all international questions, moreover, which were not questions of 'high policy', the Indian delegates were free to differ from those of Britain or the Dominions, and, if India had not been thus directly and separately represented, real conflicts of interest might well have been overlooked or minimised. As it was, Indian interests were not only fully stated on occasion they prevailed. A notable instance was the sharp conflict between the British and Indian delegates at the Labour Conference on maritime questions in 1920 when the latter successfully defended the position of Indian lascars in British shipping.

Last but not least the new status secured the world's recognition of India, whatever its present form of government might be, as not merely an adjunct of the British Empire but as a member of international society with a personality and interests and expectations of its own. Representatives not only of the Dominions but of foreign Powers dealt with its representatives face to face, and, while on the one hand Indian statesmen were thus enabled to acquire a new knowledge and experience of international affairs, they could also make the world's public men better acquainted with India's character and claims.

There was one more recognition of India's coming nationhood—the most significant of them all. Trade has always been a primary factor in the history of the British Empire, and the first breach in the dual system which Durham had advised for Canada, the first step forward from domestic colonial self government towards Dominion Status was the establishment of a protective tariff, against British as well as American goods by the Canadian Government in 1858-9.¹ There is no better illustration of the liberal attitude of mind that prevailed in England at the time of the Montagu-Chelmsford Reforms than the proposal that the same sort of fiscal autonomy should be conceded to India. 'Whatever be the right fiscal policy for India', said the Joint Select Committee in 1919, 'it is quite clear that she should have the same liberty to consider her interests as Great Britain, Austria, New Zealand, Canada and South Africa.'² This unequivocal recommendation was accepted and took effect in what was known as the 'Fiscal Convention', whereby it was understood that the Government of India in framing its tariff policy should regard itself as the guardian of Indian interests, responsive to Indian opinion, and that, if the Government and the Legislature were agreed, the Secretary of State would not exercise his overriding power on behalf of any British interest. Lord Curzon, who had always championed the cause of Indian trade, did not quarrel with this new departure, but he described it as 'a change so funda-

¹ See p. 40, above

² Report 11

mental and fraught with such stupendous consequences that I am amazed at the little attention it has attracted in this country'.¹ In view of the long record of conflict between the cotton trade of Lancashire and India—a record stained on the British side by the selfish imposition of the cotton excise-duties—this language was not too strong. For the Convention did in fact enable India to defend her interests effectively against Britain and other countries. In 1921, an Indian Fiscal Commission was appointed and its recommendation of 'discriminating protection' was accepted both by the Government and the Assembly. In 1923 a Tariff Board was constituted; and in the course of the next fifteen years, by a series of Acts of the Indian legislature, the Indian tariff-system was greatly elaborated and extended. Not unnaturally, British business men, especially in the cotton trade, were gravely concerned, but their remonstrances were unavailing, even when the duty on imported British cotton-goods rose to 15 per cent. and then to 20 per cent. The Secretary of State conveyed their protests to the Government of India and pressed on occasion for their serious consideration, but the Convention was loyally observed, and the Indian Government and Legislature, when in agreement, had their way. And on all essential issues they did agree. They agreed on the principle of imperial preference. They agreed, after some controversy, on the outcome of the Ottawa Conference, which Indian representatives had of course attended. They agreed as to the terms of a commercial treaty with Japan in 1934—the first regular treaty concluded directly between India and a foreign country. Thus by frequent usage, the Fiscal Convention, like so many other conventions in the constitutional history of the British Empire, acquired something like the force of law. No Secretary of State, said Mr Wedgwood Benn, speaking for the Government in the House of Commons in 1929, would

attempt to lay a finger upon this principle of tariff autonomy which has been established in practice for ten years in Indian affairs. There is Dominion Status in action, there is a Dominion attribute. It has now become part and parcel of the rights of India.²

The steps enumerated in the preceding pages to enhance the position of India have been set down in some detail because they demonstrate so clearly the sincerity of the British intention that India should attain her freedom. If that had not been the intention, if it had been desired to maintain British control over India indefinitely, it would have been obviously foolish to give India a footing and Indians a platform in the international world. And if India had been meant, as the Swarajists still maintained, to be the eternal victim of 'economic imperialism', the Fiscal Convention would have been absurd. That being so, it is surprising that successive British Governments hesitated to admit the logical consequence of the new policy. Needing a clear counter-cry to the vague slogan of *Swaraj*,

¹ *Hansard*, H. of L., xxxvii (1919), 1043. ² *Hansard*, H. of C., ccxxxiii (1929-30), 1552.

the Liberals began to ask soon after 1919 for an official declaration that the progressive programme of 1917 must culminate in Dominion Status. The delay in meeting that request was partly due no doubt to the habitual reluctance of Englishmen to commit themselves to something they cannot clearly see and whatever visions a Macaulay or a Munro may have had a long time ago it was still difficult to envisage an India wholly and entirely free. These were solid obstacles to overcome. It may have seemed that to define the goal more exactly was to encourage the illusion that it was already within India's reach. There were Englishmen too even in high place who supposed that Dominion Status and the parliamentary system were inseparable and though both were equally implicit in the Announcement of 1917 they may have shrunk from saying straight out that India was committed to a parliamentary fate. However that may be it was not till 1929 that the admission of an always undeniable truth was made at last in the form of a statement by Lord Irwin.

In view of the doubts which have been expressed both in Great Britain and India regarding the interpretation to be placed on the intentions of the British Government in enacting the statute of 1919 I am authorised on behalf of His Majesty's Government to state clearly that in their judgment it is implicit in the Declaration of 1917 that the natural issue of India's constitutional progress as there contemplated is the attainment of Dominion Status.¹

III THE NEHRU REPORT

Indian nationalists had long taken this interpretation of the Announcement of 1917 for granted and in the summer of 1928 more than a year before Lord Irwin's declaration a group of them had set to work to draft a constitution for India on the Dominion model. This enterprise was a natural response to the same stimulus as that which had prompted the Congress League Scheme in 1916. Constitutional changes were again impending the Simon Commission had been appointed at the end of 1927 and paid its first visit to India early in 1928. But this new Indian effort was more ambitious than its predecessor. Its authors were not content with submitting one or two major proposals they dealt with the constitution as a whole and outlined their conception of it in a rough draft of an Act of Parliament. And though their work as will be seen had little practical result the report² in which they set forth and explained the new constitution commonly called the Nehru Report deserved more attention from British students of politics than it received. For it was not only an answer to the challenge that Indian nationalism was unconstructive it embodied the frankest attempt yet made by Indians to face squarely the difficulties of communalism

¹ Speech of October 31, 1929. The Governor General's Instructions under the Act of 1919 (see Appendix III p. 126 below) spoke of British India attaining its due place among Our Dominions but the meaning of this phrase was a matter of dispute.

² All Parties Conference 1928. Report of the Committee appointed by the Conference to determine the principles of the Constitution for India (Allahabad 1928).

The Report, indeed, was the direct outcome of those difficulties. When a Conference representing all political parties met at Delhi in February 1928 to consider the drafting of an Indian constitution, it found its progress barred by communal discord in which the Moslem League on the one hand and the Hindu Mahasabha, the body which represents the more orthodox and militant elements of Hinduism, were the protagonists. By the time the Conference met again in Bombay in May, the breach had widened and hardened, and it was thought that a way out of the deadlock might be found by a small committee 'viewing the communal problem as a whole and in its relation to the constitution'.¹ A committee was accordingly constituted as follows: Pandit Motilal Nehru (Chairman), Sir Ali Imam and Mr. Shuaib Qureshi (Moslems), Mr. M. S. Aney and Mr. M. R. Javahar (Mahasabha), Mr. G. R. Pradhan (non-Brahmins), Sardar Mangal Singh (the Sikh League), Sir Tej Bahadur Sapru (Liberals), and Mr. N. M. Joshi (Labour). Pandit Jawaharlal Nehru, at that time General Secretary of the Congress, acted as secretary. Mr. Javahar declined to serve, and Mr. Joshi was unable to attend the meetings. Sir Ali Imam attended only one meeting, but he kept in touch with the Committee's proceedings and signed its Report.

The Committee was charged 'to consider and determine the principles of the Constitution for India'. In order to obtain the maximum of agreement the Conference had defined the basis of the constitution as 'full responsible government', thus evading an issue on which nationalist opinion had been divided since 1921. The left wing held that the 'complete national independence' or *Purna Swaraj*, which the Congress had declared to be its goal at the end of 1927, meant an independence as complete as that of China or Japan. The right wing argued that the independence of the Dominions, as affirmed in 1926, was in fact, if not yet in form, complete. It was clearly impossible to draft a constitution which left that question undecided, and the Committee by a majority adopted the formula, full responsible government on the model of the constitutions of the self-governing Dominions. But this, of course, did not commit them to the British principle of gradual advance. 'The attainment of Dominion Status is not viewed as a remote stage of our evolution but as the next immediate step.' No party, they declared, could be satisfied with less than that. Nor would those who wanted more be affected in the long run by the Committee's decision. 'It does not mean that any individual Congressman, much less the Congress itself, has given up or toned down the goal of complete independence.'²

Having laid down these general principles in the introductory chapters of their Report, the Committee at once attacked the problem of communal and primarily Hindu-Moslem dissensions which, as they said, 'cast their shadow over all political work'. The essence of their doctrine on this issue is contained in the following passages of the Report:

¹ *Ibid.*, 23

² *Ibid.*, 1, 24-5.

A newcomer to India looking at the strength of the Muslim community would probably imagine that it was strong enough to look after itself.

But logic or sense has little to do with communal feeling and to day the whole problem resolves itself into the removal from the minds of each of a baseless fear of the other and in giving a feeling of security to all communities. In looking for this security each party wants to make for itself or to retain a dominating position. We note with regret that the spirit animating some of the communal spokesmen is not one of live and let live. The only methods of giving a feeling of security are safeguards and guarantees and the grant as far as possible of cultural autonomy.

The Muslims being in a minority in India as a whole fear that the majority may harass them and to meet this difficulty they have made a novel suggestion—that they should at least dominate in some parts of India. The Hindus on the other hand although in a great majority all over India are in a minority in Bengal and the Punjab and in Sind, Baluchistan and the North West Frontier Province. In spite of their all India majority they are afraid of the Muslims in those Provinces.

We cannot have one community domineering over another. We may not be able to prevent this entirely but the object we should aim at is not to give dominion to one over another but to prevent the harassment and exploitation of any individual or group by another. If the fullest religious liberty is given and cultural autonomy provided for the communal problem is in effect solved although people may not realise it.

We are certain that as soon as India is free and can face her problems unhampered by alien authority and intervention the minds of her people will turn to the vital problems of the day. How many questions that are likely to be considered by our future legislatures can be of a communal nature?

Parties will be formed in the country and in the legislatures on entirely other grounds chiefly economic we presume. We shall then find Hindus and Muslims and Sikhs in one party acting together and opposing another party which also consists of Hindus and Muslims and Sikhs. This is bound to happen if once we get going.¹

The Committee made three proposals,

(1) A Declaration of Rights should be inserted in the constitution assuring *inter alia* the fullest liberty of conscience and religion.

(2) The North West Frontier Province (with its Moslem majority of over 90 per cent) should acquire the same status as other Provinces and Sind (with its Moslem majority of over 70 per cent) should be detached from Bombay and become a separate Province. The latter concession which was hotly opposed at this time by the Mahasabha might seem to have been prompted by that novel suggestion of local domination but the Committee defended it on the principle of self-determination stressing at the same time their cultural interpretation of communalism.

To say from the larger viewpoint of nationalism that no communal Provinces should be created is in a way equivalent to saying from the still wider international viewpoint that there should be no separate nations. Both these statements have a measure of truth in them. But the staunchest inter

nationalist recognises that without the fullest national autonomy it is extraordinarily difficult to create the international state. So also without the fullest cultural autonomy, and communalism in its better aspect, is culture, it will be difficult to create a harmonious nation.¹

The carving out of a new Kannada-speaking Province in Southern India was also recommended on cultural grounds since its population would be dominantly Hindu, this might be regarded as a communal set-off to the separation of Sind.

(3) On the other hand the Committee, unlike the authors of the Congress League Scheme, made no concession to the Moslem standpoint on the old question of separate electorates. In theory, they declared, separate electorates violated the essential principles of responsible government in practice they had 'failed to pave the way to a better understanding between the communities'.² They should be discarded, therefore, and all elections made by joint or mixed electorates. The only communal safeguard should be reservation of seats, and this should only be afforded to the Moslems and not to any other community or group except the non-Moslems in the North-West Frontier Province. Nor should seats be reserved for Moslems where they were in a majority, but only at the Centre and in the Provinces in which they were in a minority. The right to contest other than reserved seats should be conceded, but no 'weightage' should be allowed the number of seats reserved must be in strict proportion to the size of the community. 'A minority must remain a minority whether any seats are reserved for it or not'.³ These proposals were backed by a detailed examination of the local distribution of the Moslem population in Bengal and the Punjab which went to show that, without reservation of seats, the Moslems were certain of elected majorities at least equivalent to their numbers.

From the communal problem the Committee turned to examine two further difficulties which had been wrongly regarded—so it was argued—as barring the road to Dominion Status.

The first of these was the relationship of the States with the British Government. The Montagu-Chelmsford Report, it will be remembered, had pointed out that the attainment of a free Indian nationhood implied the ultimate union of the States with British India and had dimly envisaged the distant prospect of an all-India federation. The Nehru Report is even more tentative. 'If the constitution of India is to be federal,' it remarks at one point, 'as we think it might well be.' But there is no such uncertainty in the Committee's mind as to the effects of federation on the domestic concerns of the States.

If the Indian States would be willing to join such a federation, after realising the full implications of the federal idea, we shall heartily welcome their decision and do all that lies in our power to secure to them the full enjoy-

¹ *Ibid*, 32.

² *Ibid*, 33.

³ *Ibid*, 52.

ment of their rights and privileges. But it must be clearly borne in mind that it would necessitate perhaps in varying degrees a modification of the system of government and administration prevailing within their territories¹

This was firm language and it signified a stiffening in the attitude of Indian nationalists towards the Princes. While deploring their failure to apply to their States the principles of 1917 or to introduce any measure of responsible government corresponding to that which was introduced in British India by the Act of 1919² the Congress had hitherto abstained for several years from direct interference. Political agitation never an easy business in the States was left to their own peoples: the Congress had no party branches there. But in 1927 an organisation known as The Indian States Peoples Conference had come into being which had declared its aim to be the attainment of responsible government for the people in the Indian States through representative institutions under the aegis of their Rulers and this aim had been endorsed by the Congress at its 1928 Session. The Princes on their side were bound to consider to what extent the progressive realisation of responsible government in British India might ultimately affect their position. It was one thing for them to acquiesce in the authority of the Paramount Power as long as it was exercised by a Viceroy responsible only to the Secretary of State but quite another thing if it were to be exercised on the advice of Indian ministers. Congressmen it might be responsible to an Indian parliament. These uncertainties of the future were doubtless among the reasons which prompted them at this time to try to clarify and strengthen their position vis à vis the Paramount Power in its present shape. They sought legal opinion and repeatedly asked for a formal inquiry and in response a committee with Sir Harcourt Butler in the chair was appointed by the Secretary of State (Lord Birkenhead) at the end of 1927 with the primary task of reporting on the relationship between the Paramount Power and the Indian States. This procedure was sharply criticised by the Nehru Committee. Instead of asking for an all round conference they complained at which the representatives of the governments and peoples of British India and the States could have easily settled all the questions at issue with mutual goodwill the Princes were trying to make their own separate terms with the British Government. An attempt is being made to convert the Indian States into an Indian Ulster. The Princes were warned that their peoples would not quietly submit to existing conditions for ever nor the people of British India for ever refrain from making common cause with them³. Meanwhile failing a federation the Princes' claims must not obstruct the advance to Dominion Status. They must accept the same position in the new Commonwealth of India as they occupied at present in the Indian Empire. The relevant article of the draft constitution ran as follows

¹ *Ibid* 83

² An account of constitutional developments in the States will be given in Part II

³ All Parties Conference 1928. *Report of the Committee appointed by the Conference to determine the principles of the Constitution for India* (Allahabad 1928) 72

The Commonwealth shall exercise the same rights in relation to, and discharge the same obligations towards, the Indian States, arising out of treaties or otherwise, as the Government of India has hitherto discharged.¹

The second obstacle to the immediate acquisition of Dominion Status was the difficulty created by the necessity of retaining British regiments and British officers for Indian regiments in India until a completely Indian defence force could be built up. This difficulty was dealt with by the Committee in rather summary fashion. They did not discuss it in the main body of the Report but only in the introductory chapter, and even that discussion went little further than the citation of two conflicting authorities. Professor Keith was quoted as saying that 'self-government without an effective Indian army is an impossibility'. This was countered by a passage from a speech by Sir Sivaswamy Iyer in which, while he admitted that 'full Dominion self-government implies the capacity to undertake the defence [of the Dominion], not merely by paying for it but also by undertaking its officering and administration', he pointed out that this had not been made a condition for granting the Colonies their 'self-governing status', nor was it required by the Dominions even now as regards defence against external aggression or at sea. This was scarcely an adequate treatment of the constitutional issues involved, but the Committee proceeded without further comment to recommend that the new Indian Legislature should be empowered to legislate and budget for the Indian army and that its control should be transferred to a responsible Indian Minister of Defence. A statutory Committee of Defence should be appointed by the Government, consisting of the Prime Minister, the Ministers of Defence and Foreign Affairs, the Commander-in-Chief and the commanders of the air and naval forces, the Chief of the General Staff and two other experts. Since the constitution was to come into force at once and before completely Indian forces had been built up, it would seem that those Service Chiefs were to be members of the British forces. But this was not made clear. The only reference to British troops in India was in an article in the constitution safeguarding the financial rights of all British and Indian officers serving in India 'at the date of the commencement of the new constitution'.²

Foreign policy, inextricably linked with defence, was given still more cursory treatment. On the one page of the Report devoted to it it was argued (1) that the new government of India would be as capable as the existing one of discharging the obligations of the British Government towards the neighbouring states of Asia, and (2) that wider questions of foreign policy would be settled by mutual discussion between the new Dominion and her fellow-members of the British Commonwealth of Nations.³

¹ Art 85. *ibid.*, 122

² Art 84: *All Parties Conference 1928; Report of the Committee appointed by the Conference to determine the principles of the Constitution for India* (Allahabad, 1928), 122.

³ *Ibid.*, 87-8.

The text of the constitution need not be examined here in detail.¹ Though it purported to be an outline draft rather than a precise legal document it followed fairly closely the arrangement and phraseology of its Dominion models. Its first article was a reproduction of the first article of the Anglo Irish treaty of 1921

India shall have the same constitutional status in the comity of nations known as the British Empire as the Dominion of Canada the Commonwealth of Australia the Dominion of New Zealand the Union of South Africa and the Irish Free State with a Parliament having powers to make laws for the peace order and good government of India and an executive responsible to that Parliament and shall be styled and known as the Commonwealth of India

After a definition of citizenship and a declaration of fundamental rights the legislative power of the Commonwealth was declared to be vested in Dominion style in the King and a bicameral parliament and the executive power in the King exercisable by the Governor General as the King's representative *acting on the advice of the Executive Council*. The words printed in italics here and above went beyond Dominion precedent. Responsible government had been established in the Dominions by usage not by written law and the Irish Free State constitution while requiring the Executive Council to be responsible to the legislature had only required the King's representative to act in accordance with the practice of the Dominions.² Another innovation was the requirement that the Governor General while free to appoint the Prime Minister should appoint the other members of the Executive Council on the Prime Minister's advice.

Parliament was to consist of a Senate elected by the Provincial Councils by a system of proportional representation and a House of Representatives elected by general constituencies on a basis of adult suffrage.

Adult suffrage would also be introduced in the Provinces where the legislatures would be unicameral and directly elected. The same provisions for responsible government would apply to the Governors and Executive Councils in the Provinces as to the Governor General and Council at the Centre.

Dominion precedent was roughly followed in the establishment of a Supreme Court and High Courts and in limiting the right of appeal to the Judicial Committee of the Privy Council.

The revenues of India would bear the charge *inter alia* of all expenses debts and liabilities contracted and incurred on account of the [existing] Government of India.

The existing civil services would become Commonwealth services under the new parliament's control. If any officer were discharged or chose to retire within three years he would be compensated on the basis of his previous service.

Other articles incorporated the Report's decisions mentioned above as to defence and relations with the States. The recommendations on

¹ The constitution is printed on pp 100-94 of the Report.

² Article 51.

communal representation and on the new Provinces were not included in the constitution but set forth separately at the end of it.

One outstanding feature of this first attempt by Indians to frame a constitution for India must be emphasised. It was dominated by the tradition of unitary government established by British rule. Even as an ultimate goal federation, as has been seen, was not definitely accepted. The individuality of the Provinces, it is true, was recognised in the Report; and, apart from the separation of Sind and the Kannada Province, a general readjustment of Provincial boundaries was recommended on the basis of common language. The reference to nationalism and internationalism, moreover, in the discussion about Sind had an air of federalism about it. Yet the constitution could hardly be called federal. Devolution was carried no further than the Act of 1919 had carried it. The schedules of Central and Provincial subjects were practically the same as the existing schedules, and all subjects not named therein were allotted by the constitution to the Centre. Nor was the Central legislature based on the federal principle. The lower house was still to be elected by general British Indian constituencies, and, if the upper house was to be elected by the Provincial Councils, each Province would not be given the same number of seats, like the Provinces or States in the Canadian, Australian or American federations, but a number proportionate to its population.

In any final judgment of the Committee's work it would be manifestly absurd to compare it with the work accomplished by the makers of the Dominion constitutions. The Report was finished within three months, and its authors were not so much attempting to elaborate a complete and final constitution as to set forth the basis of an inter-party agreement in constitutional form. And, since most of their time and thought was given to the communal question, it was perhaps inevitable that such other major difficulties as defence and relations with the States should be given less attention than they needed. If that was the chief weakness of the Report, if it seemed to be attempting a 'short cut' to Dominion Status by overriding obstacles which in practical politics could not be so treated, nevertheless it recognised the reality of two cardinal facts—that the unity of all India could only be achieved by the free will of the States, and that for at least a period of transition India would require the help of British forces in its defence. But the most significant feature of the Nehru Report as a whole is that, short cut or not, its objective was Dominion Status. A Committee on which the Congress was strongly represented had been unanimous—the minority accepting the majority view for the sake of agreement—in recommending to their fellow-countrymen that India should remain within the British Commonwealth.

IV. SEQUEL

The report was submitted to the All Parties Conference when it re-assembled at the end of August at Lucknow. It was accepted in principle, and the Committee was re-appointed, with power to add to its numbers, to consider amendments proposed by the Conference. The Report, as amended, was signed by all the previous signatories except Mr Sbuah Qureshi and Mr Pradhan, and by the following new members of the Committee—Pandit Madan Mohan Malaviya, Mrs Besant, Mr M A Ansari, Mr M R Jaykar, Mr Viparaghavachariar, and Mr Abdul Kadir Kasuri.

The only substantial changes in the draft constitution were (1) the insertion of an article prescribing Hindustani and the principal language of each Province as the official languages of the Commonwealth and the Provinces respectively (2) a provision that the system of communal representation should be reconsidered after ten years, and (3) the elevation of Baluchistan as well as the North West Frontier Province to full Provincial status¹. It was also decided that the constitution should be put into legal form and submitted to a Convention, chosen like the Conference on an all party basis at the end of the year. The Convention was never held. In the course of that autumn the forces of dissension, which had been present in the background while the Committee was at work, came to the front and destroyed the framework of agreement it had so laboriously constructed.

The first breach was in the ranks of Hindu nationalism. Pandit Jawaharlal Nehru told the Lucknow Conference that, though he would not oppose the acceptance of the Report he and his friends could not vote for it as that would commit them to acquiescence in Dominion Status. At the meeting of the Working Committee of the Congress in November, the Report was generally approved as 'a great step towards political advance' and the communal settlement expressly accepted, but it was declared at the same time that the Congress goal of 'complete independence' meant secession from the British Commonwealth since there can be no true freedom till the British connexion is severed². When the Congress held its annual Session in December, it passed no judgment on the Report, its chief product was a more open challenge to the Princes than that of the previous year. It assured 'the people of the Indian States of its sympathy with and support in their legitimate and peaceful struggle for the attainment of full responsible government in the States', and it urged the Princes to concede to their subjects all the civic rights of a modern liberal society³.

More serious was the seemingly inevitable Hindu Moslem split. The painstaking efforts of the Nehru Committee to close the communal breach

¹ The amended text is printed in *All Parties Conference, 1928 Supplementary Report of the Committee* (Allahabad 1928), 31-51.

² *Congress in Evolution* 27.

³ *Ibid*, 27-8.

seemed, in fact, to have widened it. Capable as they were, the Moslem members of the Committee did not command the support of their community as a whole, and the immediate effect of the Report was to unite the Moslem ranks in opposition to it. The two wings into which the Moslem League had been divided for some time past, one led by Sir Muhammad Shafi, the other by Mr Jinnah, began to draw together; and at the end of the year an All-India Moslem Conference met at Delhi at which representatives of all shades of Moslem opinion from the farthest 'left' to the farthest 'right' assembled under the presidency of the Aga Khan. On January 1, 1929, this Conference adopted by a unanimous resolution a full-scale manifesto of Moslem claims. Its principal points were as follows

In view of India's vast extent and its ethnological, linguistic, administrative and geographical or territorial divisions, the only form of government suitable to Indian conditions is a federal system with complete autonomy and residuary powers vested in the constituent States.

The right of Moslems to elect their representatives on the various Indian legislatures through separate electorates is now the law of the land, and Muslims cannot be deprived of that right without their consent.

In the Provinces in which Musalmans constitute a minority they shall have a representation in no case less than that enjoyed by them under the existing law (i.e. 'weightage').

It is essential that Musalmans should have their due share in the Central and Provincial cabinets¹

Other clauses of the resolution revived the old device of a three-fourths' majority rule in the legislatures,² conceded 'weightage' to the Hindu minorities in Sind, the North-West Frontier Province, and Baluchistan, insisted on a due proportion of Moslems in the civil services and on all statutory self-governing bodies, and demanded safeguards for 'the protection and promotion of Muslim education, languages, religion, personal law, and Muslim charitable institutions'. The final clause was as follows: 'This Conference emphatically declares that no constitution, by whomsoever proposed or devised, will be acceptable to Indian Musalmans unless it conforms with the principles embodied in this resolution'. Thus the Nehru Report was flatly repudiated, and on two main grounds. First, the Moslems were determined to retain the rights of representation accorded them under the Act of 1919. Secondly, they had made up their minds that the ultimate constitution of India must be federal, not unitary.

Such was the barren outcome of the first attempt of Indian public men to build a constitution of their own on a foundation of national unity. It was a courageous attempt, and the building that resulted from it might at least have served as a framework for adaptation and extension in the light of further discussion. But no sooner had it been erected than the foundation had collapsed. It seemed as if it was impossible for Indian nationalism ever to show its strength without at the same time betraying its weakness.

¹ The text of the resolution is given in *Simon Report*, II, 81-5. ² See p. 46, above.

CHAPTER IX

THE ROUND TABLE CONFERENCE

I FIRST SESSION

THE Round Table Conference opened on November 12 1930. Of its eighty nine members sixteen were representatives of the three British parties with Mr Ramsay MacDonald Prime Minister of the Labour Government of the day at their head. The fifty seven members of the British Indian delegation had been invited to attend by the Viceroy as representatives of all the Indian parties and interests except the non-cooperating Congress. Most of the names which have figured on earlier pages of this book were on the list—among the Hindu Liberals Sir Tej Bahadur Sapru Mr Bistri Mr Jayakar and Mr Chintamani among the Moslems the Aga Khan Sir Muhammad Shafi Mr Muhammad Ali Mr Fazlul Haq and Mr Jinnah. The leading representative of the Sikhs was Sardar Sampurnan Singh of the Mahasabha Dr B. S. Moonje of the Depressed Classes Dr Ambedkar of the Indian Christians Mr K. T. Paul of the British business community in India Sir Hubert Caird and of the Anglo-Indians Lieutenant Colonel Gidney. The sixteen delegates from the States included the rulers of Alwar Baroda Bhopal Bilmer Kishanpur Indore and five other smaller States. Hyderabad was represented by Sir Akbar Hyat a member of the Nizam's Executive Council Mysore by Sir Muzi Ismail the prime minister and Gwalior by Colonel Hilsen a member of the Council of Regency.

The Conference was a unique historical event. Never before had representatives of 400 million people owing allegiance to one sovereign, assembled to discuss their common concerns. Nor ever before had delegates from all British India and the States either met each other or met delegates of Britain at the council table. For the Indian members of the Conference it must have been a useful experience. For the British members and for the public who watched the proceedings in the Press and the printed reports it was an education in Indian politics. Student of India had been provided with more literature on the subject—books, state papers, debates, journals, etc.—in the course of the last twenty years than in any previous generation, but now the whole complex of the Indian problem was brought to life so to speak before their eyes on the London stage. Yet not quite the whole. There was a gap in the company. The fiercest and most vigorous organism in Indian politics the one which appealed most strongly to the youth of India, was not represented. The attitude of the Congress was still implacably hostile. The Conference and its spokesmen was a collection of hand-picked Government men their voice was not the voice of India.

At the opening of the Conference a new note was sounded. The Dominions had been interested in the development of Indian trade, and South Africa had engaged in a sharp controversy about the treatment of its immigrant Indian population; but hitherto the political problem had been treated, broadly speaking, as one in which only Britain and India were involved. Now the Dominions were brought into the picture. The recent 'quickening and growth in ideals and aspirations of nationhood', said King George V in his inaugural speech, had not been confined to India, they had affected all the nations of the British Commonwealth, and he welcomed the presence of the Dominion High Commissioners at the opening ceremony as proof of a 'community of interest'. 'Each one of you', he told the Conference, 'will, with me, be profoundly conscious how much depends for the whole of the British Commonwealth on the issue of your consultations.'¹ This was a salutary reminder; for it had sometimes been forgotten that the position of India in world politics was a matter on which none of the Dominions, and least of all Australia and New Zealand, could be indifferent.

On the fundamental issue of Dominion Status there was a marked difference at the outset in the attitude of the British and the Indian members of the Conference. It was now admitted on the British side that India would obtain Dominion Status when the process of realising responsible government in India as a part of the British Empire was complete. But the British representatives, whatever their party, were not prepared to say that the process could be completed at once. Full responsible government in the Provinces under temporary safeguards they were ready to concede: it had been recommended in both the Simon Report and the Government of India's Dispatch. The crux was at the Centre, where the Report had vetoed responsible government outright and the Dispatch had advocated only 'responsive' government. And Dominion Status involved another question which, it seemed, could not be quickly answered. The difficulties of British India attaining Dominion Status by itself were obvious; they had been too lightly brushed aside by the Nehru Committee, yet the alternative, the union of British India with the States in an all-India federation, had been relegated to an almost as distant future in the Simon Report and the Dispatch as in the Montagu-Chelmsford Report. On the British side, therefore, the only practical question of the moment seemed to be whether, pending the far-off federation, to keep the Central frame of government essentially unitary, as the Dispatch and the Nehru Report proposed, or to readjust it on federal lines as advised by the Simon Commission.

Most of the Indian members of the Conference, on the other hand, wanted a more concrete and immediate response to the claim for Dominion Status. The first speech in the five-days' general discussion with which the proceedings began was appropriately made by Sir Tej Bahadur Sapru, one of the leading disciples of Mr Gokhale's old 'colonial' school and also a

¹ *Indian Round Table Conference* (Nov. 12, 1930—Jan. 19, 1931) [Cmd. 3778], 15.

member of the Nehru Committee 'India wants', he said, 'and is determined to achieve a status of equality—equality with the other free members of the British Commonwealth, an equality which will give it a Government not merely responsive but responsible to the popular voice'¹ There were matters, he admitted, such as defence, which could not be completely or immediately entrusted to Indian Ministers, but those could be dealt with by 'safeguards' during a period of transition 'Provide as many safeguards as you can,' he said to his British colleagues, 'so long as those safeguards do not destroy the vital principle, and then go ahead with courage and with faith'² Nor did he hurle the difficulty of the relations of the States with a responsible government at the Centre Leaving the Nehru Report behind him, he declared himself decisively for a federal, not a unitary, system, and invited the Princes to agree forthwith to the creation of an all India federation They would furnish, he said, 'a stabilising factor in our constitution'; their adherence would enable the process of national unification to begin without delay, and British India would benefit from their experience in matters of defence³

The Princes quickly responded to this challenge The very next speaker was the Maharajah of Bikaner and he at once identified himself and his order with the aspirations of British India and 'that passion for an equal status in the eyes of the world expressed in the desire for Dominion Status, "which is the dominant force amongst all thinking Indians to day Next he agreed that India must be united on a federal basis 'The establishment of a unitary state with a sovereign parliament sitting at Delhi to which the whole people would look in great things as in large, is to my mind impossible' The constitution must be federal, and while the Princes could not be in any way coerced, they would come in to an all India federation of their own free will, provided their rights were guaranteed' Thus, in a moment, the ideal of federation was brought down from the clouds But not yet quite to earth For, if other Princes in the course of this opening discussion echoed the sentiments of their first spokesman, none of them suggested that federation was an immediate possibility or expressed opinions on the question of responsible government at the Centre

Thus far, then, there was an impressive measure of concord on the Indian side Nor was it broken at this stage by the minorities Sir Muhammad Shafi for one wing of the Moslem community and Mr. Jinnah for the other were both in full agreement with Sir Tej Bahadur Sapru Both asked for Dominion Status and for the responsible government at the Centre which it implied Both welcomed an all India federation⁵

Of the other speeches Mr. Jayakar's may be singled out, because among the group of Indian Liberals at the Conference he stood nearest to the absent Congress and could best interpret its mind What he said was reassuring as far as it went He begged the British representatives not to shrink from

¹ *Ibid.*, 28
² *Ibid.*, 36-7

³ *Ibid.*, 32
⁴ *Ibid.*, 55, 147, 149

⁵ *Ibid.*, 23.

conceding Dominion Status to India for fear that it might be used to cut the connexion with the British Empire. 'If you give India Dominion Status to-day, the cry of independence will die of itself.'¹

Two other features of this opening debate should be noted. The first was the reaction of Indian speakers to the principles of federalism, now that an Indian federation seemed suddenly to have come within the scope of practical politics. Much of what was said about the great diversity of Indian life and the need for giving all its varied elements a chance of free development within the framework of a wider national unity had been said before, but now it was said for the first time by Indians. 'To strain after uniformity in the federal structure', said the Maharajah Gaekwar of Baroda, 'would be a mistaken policy. There should be perfect freedom given to each unit to develop along its own peculiar lines.'² Begum Shah Nawaz, speaking for the women delegates, declared that the federal form of government was the only way 'to weld together a continent like India into one great nation'

Such a form will give to our people in their respective Provinces, in their natural surroundings and in their own traditional culture, freedom and scope for the full development of the different faculties given to them by Providence. Provincial genius in every sphere of life will better flower amidst its own native surroundings. . . . A Tagore in Bengali and a Muhammad Iqbal in Urdu could enrich the world'

Mr Jadhav reminded the Conference of the great traditions of the Marathas and their military prowess. Raja Sher Muhammad Khan spoke of the Punjab as 'the shield, spearhead and sword-hand of India', and proposed that the federal army of the future should be 'supplemented by citizen militia or military police maintained by each federal Province'. Nor, of course, was the communal aspect of federalism overlooked. Mr Muhammad Ali, for example, avowed his willingness to accept the principle of 'majority rule' in a federal India. 'Luckily', he said, and the remark recalled the 'novel suggestion' of the Velur Report, 'there are Mussulman majorities in certain Provinces.'

A second notable feature of the opening debate—and it persisted throughout the Conference—was the unhesitating assumption by the great majority of the delegates that the system of government, in the Provinces and at the Centre alike should be the British parliamentary system. Only the Conservative section of the British delegation suggested that at the Centre at any rate some other system might be contemplated.

British Parliamentarians though we be [said Lord Peel] we have not thought that our parliamentary methods should be transferred wholesale from Westminster to Delhi, but have suggested that we might well consider for India the Swiss or American parliamentary models. We were anxious

¹ *Ibid.*, 41.
² *Ibid.*, 113-14.

³ *Ibid.*, 489. Cf. the Nawab of Bhopal, *ibid.*, 238.
⁴ *Ibid.*, 174. ⁵ *Ibid.*, 168. ⁶ *Ibid.*, 101.

that the [chambers of the] Central legislature should be so composed that the tie with the Provinces should be firmly impressed on their constitution and that while making laws for all India they would be acting as the agents and interpreters of Provinces and of States.¹

But that was a solitary expression of opinion. No one echoed it. The British system held the field.

Soon after the opening discussion both the questions now linked together of Dominion Status (with its implication of responsible government at the Centre) and of an all India federation were brought to a new and more practical stage by an unexpected move on the Princes' part. They were willing it appeared to consider an immediate federation on two conditions. British India must be federalised and the Central Government must cease to be a purely official government and become in some degree responsible to the Central legislature. 'We can only federate,' said the Nawab of Bhopal, 'with a self governing and federal British India.' Since none of the British Indian representatives was contemplating a bilateral federation between a unitary British India and the States, this declaration virtually created a common Indian front and if the British representatives had so far hesitated to commit themselves they could hesitate no longer. For their chief doubts about the immediate introduction of responsible government at the Centre had arisen from the fear expressed both by the Simon Commission and by Lord Irwin and his colleagues in their Dispatch of exposing the Centre to the strain of political and communal controversy during a difficult period of transition and this fear was certainly diminished by the belief that the States' participation in the Central sphere of government would be as Sir Tej Bahadur Sapru had said a stabilising factor.

The main issue having thus in principle been decided the constructive work of the Conference proceeded apace. It had been divided up among a number of subcommittees of which the most important and the strongest in personnel was the Federal Structure Committee, with six British members (one of whom Lord Simon, the Lord Chancellor, was chairman), five representatives of the States and ten of British India. Its final report presented on January 13, 1931, contained a comprehensive series of provisional decisions on most of which the subcommittee were more or less agreed. They may be summarised as follows:

(1) The Federation should be provided with a bicameral federal legislature. The upper house should be elected by the Provincial legislatures by the method of the single transferable vote, seats being allotted to the Provinces on a population basis. On the method of election to the lower house no decision was recorded. The British Indian representatives it was

reported, were 'almost without exception' in favour of retaining the existing system of direct election by general constituencies. Other members of the Committee felt that 'direct election would seriously prejudice the success of the federal ideal' and recommended indirect election through the Provincial legislatures or otherwise.¹ On the proportion of seats to be allotted to the States in both houses there was also a difference of opinion. The States' representatives claimed half the seats in the upper house and 'weightage' in the lower. The British Indian representatives would accept only some 'weightage' for the States in the upper house, and none in the lower.

(2) Executive authority should be exercised, in accordance with Dominion precedent, by the Governor-General as representing the Crown, advised by a Council of Ministers. The Governor-General should be instructed to invite one Minister to form a Government which would be collectively responsible to the legislature. There was 'general agreement' that 'the assumption by India of all the powers and responsibility which have hitherto rested on Parliament cannot be made at one step and that during a period of transition the Governor-General shall be responsible for defence and external relations'.² Opinion was divided as to the position of the Governor-General's advisers on these 'reserved' subjects, some members of the subcommittee holding that, though responsible to the Governor-General and not to the legislature, they should be regarded as ordinary members of the Council, other members arguing that this would destroy the collective responsibility of the Council. (It will be observed that this division of opinion reproduced the controversy of 1916-18. One side was reverting to the principle of the Congress-League Scheme³ the other, though it did not use the word, was recommending dyarchy.) Apart from the 'reserved' subjects, it was agreed that the Governor-General should also be free, during the transition period, 'to act on his own responsibility', if the situation should require it, in order to preserve the peace and tranquillity of the country in the last resort, to protect minorities, and to secure the rights of civil servants, and that in the event of a breakdown of the constitution he should have power to carry on the government.

(3) As regards finance, it was agreed that funds for the administration of the 'reserved' subjects should be secured to the Governor-General by making them a non-votable first charge on the revenue and by giving him legislative power for use at need. It was also agreed that the maintenance of India's financial stability and credit at home and abroad was 'a fundamental condition of the success of the new constitution'.⁴ To that end, (a) the Governor-General should be empowered to intervene in budget and loan questions if he thought that the credit of India was being seriously prejudiced; (b) a non-political Reserve Bank should be established to

¹ *Ibid*, 220

² *Ibid*, 213.

³ See p. 43 above

⁴ *Indian Round Table Conference* (Nov. 12, 1930—Jan. 19, 1931), 215.

manage currency and exchange, (c) amendments of the Paper Currency or Coinage Acts should require the Governor General's previous sanction; and (d) the service of loans and the salaries and pensions of officials appointed under the Secretary of State's guarantee should be treated, like the supply for the 'reserved' subjects, as consolidated fund charges. Subject to those limitations, finance would be under the legislature's control. In raising taxation, in fiscal policy, and in expenditure on the 'transferred' subjects the Finance Minister's position would be the same as that of any other responsible minister.

Such in outline was the scheme for the Centre drawn up by the members of the Federal Structure subcommittee. It will be seen in due course that this scheme, devised at this early stage, was in its essentials the scheme adopted in the final constitution of 1935.

The reports of the other subcommittees can be more briefly treated. *Each* The Provincial Constitution subcommittee, as was expected, recommended that dyarchy should be abolished and all subjects administered by a collectively responsible cabinet, subject to the Governor's powers of intervention for the same or similar special purposes as those enumerated with regard to the Governor General by the Federal Structure subcommittee. Minority interests should be represented in the Cabinet, and the Governor should be instructed to endeavour to secure such representation. Whether the legislature should be unicameral or bicameral should be decided in accordance with the wishes of each Province.

The Franchise subcommittee decided by a majority that, while adult suffrage should be the goal, it could not be attained at once, and that a commission should be appointed to arrange for an extension of the existing franchise so as to include from 10 to 25 per cent of the population, special provision being made for the adequate enfranchisement of women.

The Sind subcommittee, Dr Moonje and one other member dissenting, accepted the separation of Sind from Bombay in principle and recommended the appointment of a committee to examine the financial questions involved.¹

The North West Frontier Province subcommittee recommended that the Governor should henceforth be advised by two Ministers, at least one of whom should be an elected member of the Legislative Council.²

The Defence subcommittee were agreed in declaring that 'the defence of India must to an increasing extent be the concern of the Indian people and not of the British Government alone'³ and in recommending that the rate of Indianisation in the Indian Army should be substantially increased.

¹ It was intimated that separation ought not to be decided on unless the representatives of Sind undertook to make the Province financially self supporting.

² The N W F P was made a Governor's Province in 1932 under S. 52 A of the Govt. of India Act as amended in 1919, with a Leg. Co. of 40 members: one Executive Councillor, and one Minister.

³ Indian Round Table Conference (Nov. 12, 1930—Jan. 19, 1931), 394.

A minority desired that a time-limit should be fixed for complete Indianisation subject to the needs of efficiency and the provision of recruits

The Services subcommittee recommended that the rights of existing civil servants should be safeguarded, that only the Indian Civil Service and Indian Police Service should be maintained henceforth on an all-India basis, and that they should be recruited and controlled in future by the Government of India.¹

There remained the Minorities subcommittee—a body of thirty-nine members of whom thirty-three were Indians, with the Prime Minister in the chair. The Committee unanimously accepted the principle 'that the new constitution should contain provisions designed to assure communities that their interests would not be prejudiced'.² It was also agreed that the claims of the various communities to employment in the civil services should be adjusted by Public Service Commissions at the Centre and in the Provinces. As regards the system of election to the legislatures the Committee was agreed on rejecting nomination as a method of securing communal representation, but on nothing else. The old battle of the electorates was fought again with the same arguments and the same result. The only method which could be regarded as 'generally acceptable—and that did not mean acceptable to all—was separate electorates. But there was one new feature in the discussion. On behalf of the Depressed Classes Dr Ambedkar demanded that those classes should be regarded for electoral purposes as a separate community, disjoined from the Hindu population at large. The last paragraph of the report recorded that 'the Minorities and Depressed Classes were definite in their assertion that they could not consent to any self governing constitution for India unless their demands were met in a reasonable manner'.³

The communal controversy was not confined to the committee room. It was a marked feature of many of the discussions of the Conference as a whole. But in the Conference as in the subcommittee no new light was thrown on the problem, no new means of solving it suggested. The Hindu Liberals did not contest the overriding need for communal co-operation. It has been an article of faith with me, said Sir Tej Bahadur Sapru, 'that no constitution has any chance of success in India unless the minorities are fully satisfied that they have got a position of honourable safety in the new commonwealth which we are seeking to establish'. But 'the heart of the youth of India on this question', he went on 'is absolutely sound', and sooner or later a sense of 'territorial patriotism must grow'. It would grow, said Mr Jayakar if the communities were given a chance of serving

¹ This brief summary omits many minor points in the various committees' reports. It also omits the Burma subcommittee which reported on ways and means of carrying out the separation of Burma from India already decided in principle. A Burma Round Table Conference was held in 1932 and a Government of Burma Act passed in 1935.

² *Indian Round Table Conference* (Nov. 12, 1930—Jan. 19, 1931), 332.

³ *Ibid.*, 335.

⁴ *Ibid.*, 264.

India together. Give them opportunities of feeling that side by side they are working for their one country. . . and a great deal of the difficulty will disappear.¹ The Moslems for their part did not repudiate these aspirations but they repeatedly insisted that their claims must be met. Both Sir Muhammad Shafi and Mr Jinnah had made that a condition of the support they gave their fellow countrymen in their demand for Dominion Status. Mr Fazlul Haq declared that democracy meant government by all the people and cited the well known passage in which John Stuart Mill asserted that unless the minority is as fully represented as the majority there is no equal government but a government of inequality and privilege. And he warned the Hindus not to disregard the fervour in the Muslim community. Muslim India has been deeply stirred.² We have never on any occasion said Dr Shariat Ahmad Khan speaking for the Moslems of the United Provinces opposed any advance either in the Centre or in the Provinces. We have never tried to create an Ulster in India that has never been our wish. On the contrary we have said that we will fight shoulder to shoulder with our brethren for the cause of India our common Motherland. But we have at the same time made it perfectly clear that our safeguards our rights the rights for which we have been fighting for years must be preserved and guaranteed. But it was Mr Muhammad Ali's pungent rhetoric that again went deepest. Make no mistake about the quarrels between Hindu and Mussulman he said they are founded only on the fear of domination. And he reminded the Conference that Islam was not confined to India. I belong to two circles of equal size out of which are not concentric. One is India and the other is the Muslim world.

We are not nationalists but supernationalists.³

Before the Conference closed the Moslem delegation as a whole made a formal statement of its position. The Moslems it declared had taken part in the work of the subcommittees in a spirit of compromise and in the hope of settling the Hindu Moslem problem but no settlement had been achieved.

In these circumstances we feel that the only course that is consistent with the position of our community and its peculiar needs and the smooth working of the new constitution is to reiterate our claim that no advance is possible or practicable whether in the Provinces or in the Central Government without adequate safeguards for the Muslims of India and that no constitution will be acceptable to the Muslims of India without such safeguards.

It was generally felt that little was to be gained by further discussion of the communal or other problems at this stage. No attempt accordingly was made to secure a formal acceptance of the subcommittees' reports. Their contents were noted by the Conference and comments on them put on record. On January 16 and 19 the work of the Conference was reviewed

¹ *Ibid* 42

² *Ibid* 160

³ *Ibid* 43

⁴ *Ibid* 123. Mr Muhammad Ali Jinnah as it is believed came to England died before the Conference ended.

⁵ *Ibid* 246

in a sequence of thirty-five speeches. Their general tone was as harmonious and optimistic as that of the opening session. The agreement on an all-India federation was hailed as a great achievement. 'By far the larger proportion of the States', said the Maharajah of Patiala, 'will come into the federal structure at once, and the remainder will soon follow.'¹ Generous tributes were also paid by Indian representatives to 'the fine spirit', as Sir Tej Bahadur Sapru put it, 'which has been shown not merely by His Majesty's Government but by the entire section of the British delegations'.² 'They could have exploited our differences', said Mr. Mody 'That they withstood the temptation to take a narrow and selfish view is a testimony alike to the spirit in which they have faced their responsibilities and the perception they have shown of the urgency and importance of the issues at stake.'³ 'With the history of the Conference fresh in our minds', said Colonel Haksar, 'can we doubt that the policy of Britain to-day . . . has been to unite, to conciliate, to strive in every way to bring about harmony and agreement?'⁴

The proceedings closed with a statement by the Prime Minister. The Government, he said, took the view 'that responsibility for the government of India should be placed on the Central and Provincial legislatures' with the reservation of certain powers during a period of transition. It accepted the proposals for full responsible government in the Provinces and for responsible government with 'some features of dualism' at a federalised Centre.

In such statutory safeguards as may be made for meeting the needs of the transitional period, it will be a primary concern of His Majesty's Government to see that the reserved powers are so framed and exercised as not to prejudice the advance of India to full responsibility for her own government.⁵

As to the communal controversy it was 'the duty of the communities to come to an agreement among themselves'.

The Government will continue to render what good offices it can to help to secure that end, as it is anxious not only that no delay should take place in putting the new constitution into operation, but that it should start with the goodwill and confidence of all the communities concerned.⁶

Finally, the hope was expressed that 'those engaged at present in civil disobedience' might respond to the Viceroy's appeal and take their part in the co-operative work that lay ahead.

II SECOND SESSION

Throughout the first session of the Conference the Congress was still in full revolt. The civil disobedience movement had been checked by the Government's firm conduct, but not entirely suppressed. In the spring of

¹ *Ibid.*, 443.

² *Ibid.*, 472.

³ *Ibid.*, 496.

⁴ *Ibid.*, 505-6.

⁵ *Ibid.*, 461.

⁶ *Ibid.*, 507-8.

1931, however, a truce at last was called, mainly owing to the Viceroy's personal efforts. His direct negotiations with Mr Gandhi resulted in the conclusion on March 5 of the 'Irwin Gandhi Pact', under which the British Government agreed to release 'political prisoners' and the Congress to suspend the civil disobedience movement. It was also understood that the Congress would no longer boycott the Conference, and when shortly afterwards it met at Karachi, it appointed Mr Gandhi to represent it at the second session of the Conference 'with the addition of such delegates as the Working Committee may appoint to act under his leadership'.¹ In the event, while several other Congressmen attended the Conference as individuals, Mr Gandhi was regarded as the Congress' sole representative and spokesman. But a second resolution limited his powers of negotiation. It declared that 'the Congress goal of *Purna Swaraj* remains intact', and that any Congress delegation at any Conference with the British Government would work for it.

in particular so as to give the nation control over the defence forces, foreign affairs, finance and fiscal and economic policy, and to have a scrutiny by an impartial tribunal of the financial transactions of the British Government in India and to examine and assess the obligations to be undertaken by India or England, and the right of either party to end the partnership at will, provided however that the Congress delegation will be free to accept such adjustments as may be demonstrably necessary in the interests of India.²

The second session of the Conference opened on September 7, 1931. Most of the leading personalities at the first session were back in their seats, and there was a distinguished group of newcomers besides Mr Gandhi, including Sir Muhammad Iqbal, the poet, Dr S. K. Datta, a leading Indian Christian, Mr G. D. Birla, a wealthy business man, and such well known nationalists as Pandit Madan Mohan Malaviya, Mrs Naidu and Sir Ali Imam. The composition of the British delegation was much the same as before, but, though the Prime Minister was still Mr MacDonald, the Labour Government had been replaced by a National Government shortly before the Conference met, and Sir Samuel Hoare had succeeded Mr Wedgwood Benn as Secretary of State for India.

Two other extraneous events had a bearing on the work of the Conference. In the previous June the Government had informed the House of Commons that the financial resources of the Government of India had been so strained by the combined effects of the worldwide economic depression and of the uncertainty as to the future financial position of India under the new constitution that the Government might be obliged to ask Parliament, if the need should arise, to authorise financial assistance to the Government of India for 'maintaining the credit of the country pending the settlement of the constitutional problem'.³ The assistance was not in fact required, but the continued gravity of the general financial crisis was manifested, while)

¹ *Congress in Evolution*, 30² *Ibid.*, 29-30³ *Hansard*, ccliv (1931), 769

the Conference was sitting, by the British Government's abandonment of the gold standard. The second event was the enactment of the Statute of Westminster, which was passing through its later stages in Parliament when the Conference opened, and received the royal assent ten days after it had closed. The debates were interesting and informative, and enabled those who followed them—including, no doubt, some members of the Conference—to understand the meaning of Dominion Status better than they had before.

The main work of the Conference was done by two large committees on Federal Structure and Minorities which re-examined and amplified the reports presented by the corresponding subcommittees at the first session.

Mr. Gandhi was a member of both committees, and it was hoped that through his mediation some compromise might be attained between the policy of the Conference—if the scheme which had emerged from its first session can be so described—and the policy of the Congress. But, while Mr. Gandhi's personality made a deep impression on individuals and on the public outside the Conference, his performance inside it was disappointing. In the first place he claimed to represent all India because the Congress, as he explained in his first speech and on other occasions, was, as its name implied, a national, not merely a party, organisation. It not only represented over 85 per cent of the population of India, that is to say the dumb toiling, semi-starved millions', irrespective of race and creed and including the outcastes, it also represented all the communal minorities. There were four Moslems, for instance, among the fifteen members of the Working Committee, and 'thousands' of Moslems in the rank and file. Nor was it only all British India that the Congress stood for. It had supported State claims on two occasions and 'endeavoured to serve the Princes by refraining from any interference in their domestic affairs'. It claimed, therefore, 'by right of service to represent even the Princes'.¹ At one point of the discussions Mr. Gandhi seemed to press his claim still further. The Congress, he suggested, not only represented all India but was its only proper representative, since the non-Congress Indian delegates had not been chosen by the people but nominated by the Government.² In these assumptions none of the Indian members of the Conference except the Congressmen could be expected to acquiesce. Sir Muhammad Shafi, for example, pointed out that all the chief political parties and organisations in British India were represented by their presidents or ex-presidents or leading members.³ But for practical purposes Mr. Gandhi's claim to speak for all India would not have mattered if he had been able to come to terms with the British and the other Indian delegates. As it was, he frequently expressed his desire for a general agreement. 'I will count no sacrifice too great', he said once, 'if by chance I can pull through an honourable settlement'.⁴

¹ *Indian Round Table Conference (Second Session), Proceedings of Committees, 16, Proceedings of the Conference, 320.*

² *Proceedings of Committees, 530.*

³ *Ibid., 531.*

⁴ *Proceedings of the Conference, 303.*

But he seemed unwilling or unable to make any practical suggestions of his own for bringing a settlement about. This was soon apparent in the Federal Structure committee. The Liberals and the Moslems firmly adhered to the decision of the first session as to placing it at the Centre during a period of transition. The only new point of importance was the Liberal plea that the Ministers in charge of the reserved subjects while responsible to the Governor General might be Indians chosen from among the elected members of the legislature. But Mr Gandhi was not prepared to acquiesce in diarchy or in a period of transition. He insisted on the terms of what he called his mandate—the Karachi resolution. Responsible government at the Centre as in the Provinces must be established in full and at once. I am here very respectfully to claim on behalf of the Congress complete control over the army, over the defence forces and over external affairs. He did not propose that the British troops in India should be at once withdrawn, but he hoped they would learn to obey an Indian Government in the knowledge that in serving India they were serving Britain.

If you British Ministers and British people really wish well by India, if you will transfer power now to us, then regard this as a vital condition that the Army should pass under our control in its entirety. But then I have told you that I know the risk that is attendant upon it. That Army will not accept my command. I know that very well. I know that the British Commander in Chief will not accept my command, nor would the Sikhs, nor the proud Rajputs—none of them would accept my command. But I expect, even so, to exercise that command with the goodwill of the British people, that they will be there at the time of transferring the command to teach a new lesson to these very soldiers, and to tell them that they are after all serving their own countrymen if they do so.

That he admitted was a dream not to be realised yet, while but he did not explain how in the meantime the presence of British troops in India could be harmonised with the immediate and complete control of the whole defence of India by an Indian parliament.² It was the same with finance. Safeguards were not needed. India could be trusted to fulfil her obligations when impartial scrutiny had shown what they really were. Thus the opportunity of compromise afforded in the last sentence of the Karachi mandate was not made use of. More than once Mr Gandhi declared his willingness to contemplate safeguards in general, but again he made no positive proposals as to what they should be. Only on one issue—and it was an important issue—did Mr Gandhi come nearer to the standpoint of the Conference at large. India's new status, he said, would not necessarily mean secession from the British Commonwealth, but only freedom to secede.

If we are intent upon complete independence it is not from any sense of arrogance, it is not because we want to parade before the universe that we have now severed all connexion with the British people. Nothing of the kind. On the contrary, you find in this mandate itself that the Congress contem

plates a partnership—the Congress contemplates a connexion with the British people—but that connexion to be such as can exist between two absolute equals. Time was when I prided myself on being, and being called, a British subject. I have ceased for many years to call myself a British subject; I would far rather be called a rebel than a subject. But I have aspired—I still aspire—to be a citizen, not in the Empire, but in a Commonwealth; in a partnership if possible—if God wills it an indissoluble partnership—but not a partnership superimposed upon one nation by another. Hence you find here that the Congress claims that either party should have the right to sever the connexion, to dissolve the partnership.¹

It was to the communal problem rather than to those wider constitutional questions that Mr. Gandhi devoted most of his time and energy. At an early stage of the discussion in the Minorities committee he obtained, with general approval, an adjournment for a week, during which he himself convened and presided over a series of informal meetings. 'It is with deep sorrow and deeper humiliation', he reported at the end of the week, 'that I have to announce utter failure to secure an agreed solution of the communal question'. The work of constitution-building, he urged, must go on without it, and he suggested that the communal dispute might be settled by a judicial tribunal after the constitution had been completed. Meantime he tabled the Congress scheme for a settlement, which was in the main a reproduction of the scheme of the Nehru Report.² The discussions, it seemed, and particularly perhaps the suggestion that the constitution might be completed without a prior communal agreement, had stiffened rather than softened the attitude of the minority delegates. The leading representatives of the Moslems, the Depressed Classes, the Indian Christians, the Anglo-Indians and the resident British community took counsel together, and as a counter to the Congress scheme they produced a joint statement of their claims, which, they declared, must stand or fall as a connected whole. Its chief purport was to identify the case for the other minorities as far as possible with the case so often stated before by the Moslems. Its main demand was for the retention of separate electorates.³

The second session closed on December 1. Despite its failure to solve the communal problem, its time had been well spent. Much had been done to fill in the framework of the previous year. The structure of the federal judiciary had taken shape. The intricate question of the distribution of financial resources between the Centre and the Provinces had been examined, if not yet settled. The main points, besides the communal issue, on which agreement was still to seek were the composition of the federal legislature and the manner in which the States were to be fitted into the federation. In his closing statement, which was afterwards submitted to Parliament and approved by both Houses, the Prime Minister announced the Government's adherence to the policy it had declared at the end of the first session.

¹ *Proceedings of Committees*, 17.

² Text in *Proceedings of Committees*, 548. For Nehru Report, see pp. 89-90 above.

³ *Ibid.*, 550-5.

The great idea of an all India Federation still holds the field. The principle of a responsible Federal Government, subject to certain reservations and safeguards through a transition period, remains unchanged. And we are all agreed that the Governors' Provinces of the future are to be responsibly governed units, enjoying the greatest possible measure of freedom from outside interference and dictation in carrying out their own policies in their own sphere.¹

It had been proposed, he went on, that full self government in the Provinces should be established at once without waiting for the elaboration of the federal system, but the majority of the delegates had made it clear that they preferred the whole constitution to be embodied in a single Act. Meantime the Government had decided to accept the Conference's opinion on the North West Frontier Province and Sind. The former would be given the status of a Governor's Province, and the latter would become a separate Governor's Province if its financial needs could be met. Finally, Mr Mac Donald warned the Conference that the communal deadlock must not be permitted to hold up the rest of the work. 'I have never', he said, 'concealed from you my conviction that this is above all others a problem for you to settle by agreement amongst yourselves.' But, if that continued to be impossible, the Government would be compelled to apply a provisional scheme of its own, unsatisfactory though such a course would be.²

III THIRD SESSION

In the friendly speech in which he moved a vote of thanks to the chair at the end of the second session of the Conference, Mr Gandhi had intimated that he and the Prime Minister had probably 'come to the parting of the ways', and, indeed, before he got back to India, the truce between the Congress and the Government had broken down. The Congress Committee in the United Provinces, with the Working Committee's sanction, had started a 'no rent' campaign among the villagers. In Bengal 'terrorism' had broken out again—three officials had been murdered and several others seriously injured. In the North West Frontier Province a Moslem organisation, known as the 'Red Shirts', under Abdul Ghaffar Khan, had made common cause with the Congress, recalling the alliance of 1921. Red Shirt 'camps' had been established on a military basis, and inflammatory pamphlets distributed among the restless tribesmen over the border, and Abdul Ghaffar Khan, declaring that his object was to free the country from the foreign yoke, had called on the Congress to tear up the Irwin Gandhi pact and resume the fight for freedom. It was again a 'challenge to the very existence of the British Government',³ and Pandit Jawaharlal Nehru, Mr Vallabhbhai Patel, and, soon after his return, Mr Gandhi himself were arrested. So the conflict was resumed—another campaign of civil disobedience on the one side, another course of repression on the other. It fell to Lord Willingdon, who had just succeeded Lord Irwin as Viceroy, to uphold

¹ *Proceedings of the Conference*, 416.

² *Sir C. Y. Chintamani, op. cit.*, 170.

³ *Ibid.*, 418.

the forces of law and order, but Lord Irwin took occasion to say in public that, if he had still been in India, he could have done nothing else.

This renewal of disorder did not prevent the continuance of preparations for the final stage of the Conference. The Franchise Committee under Lord Lothian, the Federal Finance Committee under Lord Eustace Percy, and the States' Inquiry Committee under Mr. J. C. Davidson went out to India and drafted their reports. In August 1932, since further discussions had proved fruitless, the Prime Minister announced the Government's provisional scheme of minority representation commonly called the 'Communal Award'. The scheme fixed the number of seats in the Provincial legislatures at approximately double the number in the existing Councils. Separate electorates were retained for the minority communities and also for the Moslems in Bengal and the Punjab despite their numerical majority. 'Weightage' was also conceded to the Moslems in Provinces in which they were in a minority and to the Sikhs and Hindus in the Punjab. So far the scheme was roughly a reproduction of the existing system, and the concessions to the Moslems could be defended on the same grounds as those on which the authors of the 1919 constitution had acted—namely, that the scheme was in accordance with the 'Lucknow Pact' of 1916, the only agreement which had ever been achieved between the dominant Hindu and Moslem organisations. But there were two novelties in the scheme. About three per cent of the seats in each Provincial legislature except that of the North West Frontier Province were reserved for women, and the Depressed Classes were now recognised as a minority community entitled to separate electorates.

Indian opinion outside the Congress might have acquiesced in the Award as it stood if the new treatment of the Depressed Classes had not provoked Mr. Gandhi, then in prison at Poona, to take strong action. A lifelong champion of the outcastes, he had always regarded them as an integral part of the Hindu community and had pinned his hopes for their advancement not on division and antagonism between them and caste Hindus but on awakening in the latter a sense of social justice and duty. With this in mind he drafted a new scheme whereby the number of seats reserved for the Depressed Classes would be substantially larger than that provided in the Award, but the principle of separate electorates would only be applied in a preliminary or 'primary' stage of the elections. The Depressed Class voters would first elect a panel of candidates, and from this the members of the legislature would be elected by the general body of Hindu voters, including those of the Depressed Classes. To secure the adoption of this scheme Mr. Gandhi began a 'fast unto death' and to save his life the Hindu leaders, though they held that the scheme would seriously weaken the representation of the caste Hindus, and the Depressed Classes leaders, though they knew it undermined the logical basis of their case, felt compelled to acquiesce in it and to conclude the so-called 'Poona Pact'.

The Conference which assembled on November 17, 1932, for its third

last session was smaller than its predecessors. Only forty six delegates ended it. Sir Akbar Hydari and Sir Mirza Ismail were again present but one of the major Princes. Most of the old leaders of the British Indian delegations on the other hand were back in their places. On the British delegation only the three parties supporting the National Government were presented. The Opposition Labour Party refused to take part. The only other serious gap at this session as at the first was the gap left by the Congress.

It was understood that the British Government was preparing a complete outline of the new constitution to be submitted in due course to Parliament in the form of a White Paper. It would be based on the discussions of the Conference, and as the Provincial constitutions were now regarded as more or less settled the main business of this last short session was a further consideration of the Central organisation in the light of the reports of the Lothian Percy and Davidson Committees. As to the franchise it was agreed that adult suffrage was impracticable at present that the existing franchise should be extended and the principle of direct voting retained and that provision should be made for the enfranchisement of a substantial proportion of women. It was also agreed that the elections to the Federal upper chamber should be made by the Provincial legislatures. As to the lower house the balance of opinion after some discussion favoured direct rather than indirect election. On the question of the distribution of powers between the Centre and the Provinces the divergence between Hindu and Moslem opinion as to the character of the federation was reflected in their disagreement as to residuary powers — i.e. the control of any subjects not expressly allocated to the Centre or the Provinces or to the concurrent jurisdiction of both. The Hindus wanted them to go to the Centre the Moslems to the Provinces. To overcome this deadlock it was suggested though not without dissent that the Governor General might be empowered to decide such cases as arose. The safeguards were again discussed and the scope of the special powers and responsibilities of the Governor General and Governors precisely defined. Further consideration was given to the question of the distribution of financial resources between the Centre and the Provinces and to the contributions to be made by the States. As regards the powers of the legislatures it was argued on the British side that the general power of amending the constitution and of dealing with such matters as the sovereignty of the Crown and the control of the armed forces and possibly also nationality should remain vested in the British Parliament but it was agreed that in all other respects Indian legislation introduced with the sanction and enacted with the assent of the Governor General or a Governor as the case might be would be valid like the legislation of Dominion Parliaments under the Statute of Westminster even if it conflicted with Acts of the British Parliament applying to India. Other subjects of discussion were the Federal Court and the form of the States, instruments of accession to the Federation.

These proceedings were reviewed in a short general discussion of which the only new feature was the anxiety expressed by the Indian Liberals as to the delay in deciding the terms on which the States would join in the Federation. It seemed, said Sir Tej Bahadur Sapru, as if no progress had been made since the Princes' 'very generous and patriotic response to our invitation' in 1930. Was it certain that they were still willing to come in if their rights were protected?¹ Sir Akbar Hydari replied that the greater the difficulties appeared, the greater also was the States' determination to overcome them and attain the goal.² But the Conference could not rid itself of an uneasy impression that the federalist enthusiasm of 1930 had lost its fire, and that in fact the Princes were now 'marking time'.

The only other important feature of the discussion was not new. The Liberals pressed again for some relaxation of the reserved and special powers. Sir Tej Bahadur Sapru asked once more that the Defence Minister should be chosen from the elected Indian members of the legislature, but the Government preferred that the Governor-General's choice should be unfettered. It was suggested, however, that the Governor-General might be instructed to consult the other Ministers on matters of defence and especially on the financial provision made for it. More urgent was the Liberals' plea for a modification of the financial safeguards. Both Sir Tej Bahadur Sapru and Mr. Jayakar argued that in the form in which they had so far been drafted they were unnecessarily wide. All that was needed was to make investment in India safe and to secure the funds required for the administration of the reserved subjects and for the discharge of the Secretary of State's obligations towards the civil services recruited by him. Nor should the inauguration of the Federation be delayed until a Reserve Bank had been established. Credit, it was argued, was more a matter of political contentment than of legal restrictions. 'If you fail to satisfy the political aspirations of India, the credit of India will go down.'³ Replying for the Government, Sir Samuel Hoare emphasised the 'peculiar difficulty' that, in the midst of 'the most difficult financial crisis that has faced Asia and Europe for many generations', a substantial amount of short-term loans raised for the Indian Government in the name of the Secretary of State would soon be due for repayment. The Government, he said, fully agreed that 'there can be no effective transfer of responsibility unless there is an effective transfer of financial responsibility'. But he argued that the establishment of a Reserve Bank—which would be speeded up as fast as the economic situation allowed—and the other safeguards were necessary 'to keep the confidence of the world outside and to make it possible in the future for a Federal Government to raise money upon reasonable terms'.

The Conference broke up on Christmas Eve with appropriate expressions of peace and goodwill, but with hopes perhaps not quite as high as those with which it had begun its work two years before. Then the emphasis had

¹ Indian Round Table Conference (Third Session) [Cmd 4238], 77.

² Ibid., 97.

³ Ibid., 82.

⁴ Ibid., 142-3.

been all on the wide measure of agreement, now it lay more on the points of difference. Between Indians themselves the bridge so quickly built between British India and the States seemed already to be showing signs of instability, and the communal problem had only been prevented from blocking the whole progress of the Conference by the British Government's unilateral decision to maintain the old unsatisfactory system. The British Indian group, or at least its Hindu wing, and the British group, seemed now to stand a little farther apart. There had in fact been no withdrawal from the main position taken up by the Government at the first session, but, since the election of 1931 which had made the Conservatives the dominant party in the National Government, there seemed to have been a certain stiffening of attitude under pressure from the small but powerful 'diehard' group on the extreme Right. The breach, lastly, between the whole Conference and the Congress was apparently wider than ever. Yet, if there was a sense of disappointment or frustration in some quarters at the end of the Conference, it was not on a long view justified. **T**he Conference had done a great work. It had brought the aspirations of Indian nationalism to the test of practical politics. The difficulties of making India a free nation had been more fully and frankly faced than ever before, and, while those difficulties had been discussed on many previous occasions by Englishmen and by Indians—in particular by the authors of the Montagu Chelmsford Report, by the Simon Commission, and by the Nehru Committee—they had never been discussed so exhaustively, and on such an equal footing, by Englishmen and Indians together. And from that discussion had emerged a common measure of agreement or at least of acquiescence for though all the claims of the Indian delegates had not been met, they were willing to do their part in operating a scheme which promised India a great advance on the Act of 1919 towards the goal of full self government. **J**

CHAPTER X

THE ACT OF 1935

I. THE JOINT SELECT COMMITTEE

It was now Parliament's turn to take its part in the inquiry. In March 1933 the decisions taken by the Government in the light of the Conference were published in a White Paper,¹ and in April a joint committee of both Houses was appointed, with Lord Linlithgow as chairman, 'to consider the future government of India' with special reference to the White Paper proposals. No more powerful parliamentary committee has ever been set up. It contained most of the leading men in British public life, including several who had held high office in India. It was in almost unbroken session for eighteen months, holding 159 meetings and examining 120 witnesses. It covered the whole ground once more and in the closest detail. A remarkable part of its proceedings was the evidence given by Sir Samuel Hoare, himself a member of the Committee. he was examined for nineteen days and answered over 7,000 questions. But the most singular feature of the Committee was the presence of the delegates from India whom the Committee had been authorised to 'call into consultation'.² They took part in the examination of all the witnesses, including of course the Secretary of State, and also to a considerable extent in the Committee's private discussions. The size of the delegation was naturally smaller than that which had attended the Conference. Only twenty-one delegates came from British India and seven from the States, but most of the 'key men' of the Conference were there, such as the Aga Khan, Sir Akbar Hydari, Sir Mirza Ismail, Sir Tej Bahadur Sapru, Mr Jayakar, Dr Ambedkar and Sir Hubert Carr.

From this long and intensive scrutiny the White Paper proposals emerged unscathed on all major points save one—the method of election to the Central legislature. This question excited more controversy both in India and in Parliament than any other, and, though some of the disputants minimised that aspect of it, the conflict went to the root of the whole constitutional problem, for it was a conflict between the unitary and federal principles. Previous judgments on this issue, it will be remembered, had been divided. The Simon Commission had recommended that both houses of the Central legislature should be indirectly elected on a provincial basis partly because direct election involved constituencies of such an unmanageable size, but also in order to prepare the way for federation.² The Government of India, on the other hand, had favoured the retention of direct election on

¹ *Proposals for Indian Constitutional Reform*, Cmd 4268.

² See p. 102 above.

a general British Indian basis, at any rate for the lower house¹ The White Paper had followed a middle path, proposing the direct and unitary method of election for the lower house and the indirect or federal for the upper This plan was ultimately reversed The Committee advocated indirect election for both houses, but this provision in the bill was amended in the Lords to make election for the upper house direct

On December 12, 1934, a motion that a bill should be submitted to Parliament on the lines of the Committee's Report² was carried in the Commons by 491 votes to 49 and in the Lords by 289 votes to 62 On December 19 the bill was introduced The debates on it lasted for forty three days in the Commons and for thirteen days in the Lords At every stage its passage was tenaciously resisted by the diehard Conservatives led by Mr Winston Churchill in the Commons and Lord Salisbury in the Lords But there was no change in the balance of opinion The second and third readings were carried in the Commons by 404 votes to 133 and 386 to 122, and in the Lords by 236 votes to 55 and without a division On August 4, 1935, the bill received the Royal assent

II THE ACT

The Act comprises fourteen parts and ten schedules The whole of it came into force on April 1 1937, except Part II, which deals with the All-India Federation, and Part VIII, which establishes the Federal Railway Authority³ As will be explained presently, Part II cannot operate until a specific number of the States accede to the Federation, and no State has yet acceded The Act therefore, as it is working to day is mainly concerned like its predecessors with British India only

1. The Provinces

As regards the structure of government the most important feature of the Act is that it invests the Provinces for the first time with a separate legal personality There is little change in the scope of their legislative authority The new schedule of Provincial subjects is based on the old schedule, and the Provinces retain the right of concurrent legislation with the Centre with regard to certain specific matters⁴ The new division of financial resources between the Provinces and the Centre is designed to strengthen the

¹ See p 108 above

² The Report as drafted by the chairman was adopted by the Committee with a number of minor amendments Large scale amendments which were virtually alternative drafts of the Report were proposed by the representatives of the Labour Party and of the diehard group and rejected The e together with the recommendations of the British Indian delegation were printed in the published proceedings *Proceedings of the Joint Committee on Indian Constitutional Reform* vol 1 part II 233-470 vol II 203-38

³ The provisions of Part II about the Advocate-General have come into force and one section of Part IX dealing with the Federal Court has not come into force

⁴ In a conflict of Provincial and Central laws in the concurrent field the Central law is to prevail unless the Provincial legislation in question has been reserved for consideration, and assented to by the Governor General or the Crown (Section 107) The legislative lists are given in Schedule VII

former's independence, and their power to raise loans outside India no longer requires the sanction of the Secretary of State but only of the Central Government. These, however, are relatively minor points. The major point is the full liberation of the Provinces from the 'superintendence, direction and control' of the Central Government and the Secretary of State except for certain specific purposes. The freedom conceded in 1919 in the 'transferred' field¹ now covers practically the whole government of the Province.

The Act separates Burma from India, enables the new Provinces of Sind and Orissa to be created by Orders-in-Council (which were promulgated on March 3, 1936), and sets them, together with the North-West Frontier Province, on an equal footing with the older Provinces as Governors' Provinces. The Act also provides for the creation of new Provinces or the alteration of Provincial boundaries by Orders-in-Council after consultation with the Federal Government and Legislature and those of the Province or Provinces concerned.²

The Provincial legislatures are bicameral in Madras, Bombay, Bengal, the United Provinces, Bihar and Assam. In the other Provinces they are unicameral.³

The franchise, which, as before, is mainly based on property qualifications, includes a far larger number of voters.⁴ The total voting strength in the Provinces taken together is now more than 30 millions.

There is no change of principle in the allocation of seats in the Legislative Assemblies and Councils (as the lower and upper chambers are now called). Separate electorates and 'weightage' are retained. The communal distribution which is laid down in tables appended to Schedule X, follows the 'Communal Award' as modified by the 'Poona Pact'.

The operation of responsible government is determined partly by the Act and partly by the Governors' Instructions. An unprecedented use has been made of the latter. Heretofore they had been regarded as an executive matter with which Parliament was not directly concerned, the Act now requires that the Governor-General's and Governors' Instructions shall be laid in draft before Parliament and shall not be issued until both houses have presented an address to the Crown to that effect.⁵ They must, in fact, be regarded as an integral part of the constitution which would be incomplete without them.

The Act prescribes that there shall be 'a Council of Ministers to aid and advise the Governor' except in so far as he 'acts in his discretion' in certain matters and provided that he is free to 'exercise his individual judgment' in certain other matters.⁶ The term 'safeguards' applies mainly to the powers described in the words in italics.

The Governor is to 'act in his discretion' in such matters as the summoning of the legislature, the appointment of Ministers, the giving or withholding assent to bills or their reservation, and the administration of

¹ See p. 63 above.
² Schedule VI.

³ Sections 46, 289, 290.
⁴ Ss. 13, 53.

⁵ S. 60.
⁶ S. 50.

'backward' areas excluded from ministerial control' On these matters Ministers are not entitled to tender advice, but there is nothing to prevent the Governor from asking them for it, collectively or individually, without being bound to act on it ¹

The Governor is to 'exercise his individual judgment' mainly in the discharge of his 'special responsibilities' These are as follows (1) 'The prevention of any grave menace to the peace or tranquility of the Province or any part thereof' (2) 'The safeguarding of the legitimate interests of minorities' (3) The protection of the rights of civil servants under the Act (4) The prevention of administrative discrimination against British commercial interests (5) The good government of backward areas excluded from the normal administration (6) The protection of the rights of the States and their rulers (7) The execution of orders from the Governor-General with regard to certain Federal interests With regard to these seven 'responsibilities' and to other matters on which the Governor is to 'exercise his individual judgment—such as the selection of the Advocate-General, the alteration of police rules, or certain public service questions—Ministers are entitled, and expected, to tender advice to the Governor, but, having considered it, he is free to do what he thinks right ²

It will be observed that the fourth of these 'special responsibilities' is concerned only with administrative discrimination against British commercial interests Legislative discrimination is prohibited by a specific chapter of the Act ³ The insertion of this 'safeguard' was due to the anxiety caused in British business circles in Britain and in India by the claim occasionally made by Congressmen that the economic development of India should be in Indian hands alone But the enactment of elaborate provisions to secure fair treatment for British interests was widely criticised on the ground that Indian legislatures could be trusted to behave as reasonably as those of other civilised countries, and that in any case the only real security for British trade was the goodwill of the Indian people

Financial procedure is to accord with the usual parliamentary principles of an annual budget and governmental initiative, but certain items of expenditure, such as the Governor's, ministers' and judges' salaries, the cost of administering the 'excluded areas', and debt obligations, are to be a first charge on the revenue and therefore not votable Discussion is to be permitted, however, on all these items except the Governor's salary ⁴

For the discharge of his 'special responsibilities' and the exercise of his 'discretionary' functions the Governor is invested with legislative authority, negative and positive On the one hand he can refuse assent to a bill or return it for reconsideration or reserve it for the consideration of the Governor General ⁵ On the other hand he can promulgate an ordinance at a time of emergency which will be valid for six months, or he can enact a Governor's Act having the same validity and permanence

¹ Ss 50, 51, 62, 75, 76 etc

² Ss 50, 52

³ Ss 111, 121

⁴ Ss 78, 79,

⁵ Ss 75, 76 These powers cover bills of all kinds

as an ordinary Act of the legislature.¹ In the event, finally, of a breakdown of the constitutional machine, the Governor may assume, with the concurrence of the Governor-General, all the powers of government by a proclamation which must be submitted to the Secretary of State and laid before Parliament.²

Whenever the Governor 'acts in his discretion' or 'exercises his individual judgment' he is to be 'under the general control of, and comply with such particular directions if any as may from time to time be given him by, the Governor-General in his discretion'.³ This important provision illustrates the fact that the field in which Indian self-government is not complete under the Act is the field for which the British Parliament is to remain ultimately responsible during the period of transition. Control of the Governor-General means control through the Secretary of State by Parliament.⁴

Subject to the 'safeguards', responsible government is established over virtually the whole Provincial field. Dyarchy has disappeared.⁵ There is a single cabinet, appointed more or less in the British way, and normally the Governor must act on its advice. The seventh clause of the Governor's instructions runs as follows:

In making appointments to his Council of Ministers Our Governor shall use his best endeavours to select his Ministers in the following manner, that is to say, to appoint, in consultation with the person who in his judgment is most likely to command a stable majority in the Legislature, those persons including so far as practicable members of important minority communities who will best be in a position collectively to command the confidence of the Legislature. In so acting, he shall bear constantly in mind the need for fostering a sense of joint responsibility among his Ministers.

And the eighth clause reads:

In all matters within the scope of the executive authority of the Province, save in relation to functions which he is required by or under the Act to exercise in his discretion, Our Governor shall in the exercise of the powers conferred upon him be guided by the advice of his Ministers, unless in his opinion so to be guided would be inconsistent with the fulfilment of any of the special responsibilities which are by the Act committed to him, or with the proper discharge of any of the functions which he is otherwise by or under the Act required to exercise in his individual judgment; in any of which cases Our Governor shall, notwithstanding his Ministers' advice, act in exercise of the powers by or under the Act conferred upon him in such manner as to his individual judgment seems requisite for the due discharge of the responsibilities and functions aforesaid. But he shall be studious so to exercise his powers as not to enable his Ministers to rely upon his special responsibilities in order to relieve themselves of responsibilities which are properly their own.⁶

¹ Ss 89, 90

² S 93

³ S 54

⁴ See p 63, note, above.

⁵ The Governor's discretionary power to deal with 'excluded' areas (Sections 91-2) might be regarded as a surviving element of dyarchy

⁶ *Instrument of Instructions to Governors* (1936), H of C. paper, No. 1, 1936-7.

n *The Centre*

Part II of the Act, establishing 'The Federation of India', can only come into operation when an address to the Crown by Parliament asks for a proclamation to that effect, and the proclamation cannot be issued until a sufficient number of States (1) to occupy 52 of the 104 seats allotted to the States in the upper house of the Federal Legislature and (2) to make up half the total population of all the States, have acceded to the Federation. A State accedes to the Federation when its Ruler has executed an instrument of accession empowering the Federal Government and Legislature to exercise authority over it in accordance with the Act, but this authority can be exercised only in respect of those matters in the Federal list, and with those limitations, which the Ruler enumerates in his instrument of accession ¹

The rights of the States are further safeguarded by what may be described as a duplication of the Viceroy's office. In the conduct of their affairs as members of the Federation the States are to deal with the Governor General as head of the Federal Government, but in their relations with the British Government apart from Federal affairs they are to deal with 'His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States'. It would be almost impossible in practice for the two offices to be held by different persons, and the Act permits the same person to be appointed to both ²

The Federal Legislature, if and when it comes into being, is to be, like the existing Central Legislature, bicameral. The Council of State is to consist of 156 representatives of British India and not more than 104 of the States. It is not to be subject to dissolution, but one third of its members are to retire in every third year. The States' representatives are to be appointed by their Rulers, the smaller States being grouped together as units for electoral purposes. Six of the British Indian representatives are to be nominated by the Governor General. Of the remaining 150 seats all but 10 are distributed among the Provinces mainly on a population basis—20 being allotted to Madras, Bengal and the United Provinces, 16 to Bombay, the Punjab and Bihar, 8 to the Central Provinces, 5 to Assam, the North West Frontier Province, Orissa and Sind, and 1 to each of the four larger Chief Commissioners' Provinces. The other 10 seats are given to the Anglo-Indian, European and Indian Christian communities in British India as a whole. In the second place the seats are allocated as in the Provincial Legislatures, to separate communal electorates. The General, Moslem and Sikh seats are to be filled by direct election by members of those communities in territorial constituencies. The representatives of the Depressed Classes, Indian Christians, Anglo-Indians and Europeans are to be elected by the members of those communities who are members of the Provincial Legislative Councils or Assemblies. The Provincial Legislature as a whole is to elect to the seats reserved for women in any Province ³

¹ Ss. 56 Schedule VII² S. 3³ S. 18 Schedule I

The Federal Assembly, which will be re-elected every five years if not dissolved earlier, is to consist of 250 representatives of British India and not more than 125 of the States. The distribution of the latter is to be based mainly on population: thus Hyderabad is to have 16 seats, Mysore 7, Travancore 5. But comparatively few of the States will be represented individually: in most cases there is to be one representative for a group of States. The British Indian seats are allocated on the same principles as those in the upper house, but in this chamber the General, Moslem and Sikh seats, numbering together 193, are to be filled by indirect election, viz., by the members of those communities who are members of the Provincial Legislative Assemblies on the principle of proportional representation with the single transferable vote. The Indian Christian, Anglo-Indian and European representatives and the women are to be elected by members of those classes in the Provincial Assemblies. The representatives of the 'Scheduled Castes', as the 'Depressed Classes' are now officially termed, are to be elected by the holders of General seats in the Assemblies from candidates previously elected—four for each seat—by Scheduled Caste voters only¹.

The scope of Federal legislation is limited to the subjects enumerated in the Federal and Concurrent lists. The Federal Legislature cannot make laws for a State otherwise than in accordance with its instrument of accession; nor can it make laws to have effect in a Province on the subjects enumerated in the Provincial list. As to 'residuary powers'—the sharp conflict of principle in which, as has been seen, Hindu opinion had been on one side and Moslem opinion on the other—the compromise suggested at the Round Table Conference was adopted.² The Act does not allocate the 'residuary powers' either to the Centre as in Canada or to the federated units as in Australia; it authorises the Governor-General to determine 'in his discretion' which legislature shall deal with a subject not mentioned in any of the scheduled lists. In the event of a conflict between a Federal and a Provincial law, the former is normally to prevail. Lastly, the Governor-General is empowered to proclaim 'in his discretion' that 'a grave emergency exists whereby the security of India is threatened, whether by war or internal disturbance', and on the issue of such a proclamation the Federal Legislature will be entitled to legislate, with the Governor-General's previous sanction, on any subject in the Provincial list³.

As regards finance, certain items are charged on the Federal revenues, as in the Provinces on the Provincial revenues, and are therefore non-votable; but, again as in the Provinces, discussion on most of those items is permitted in the legislature. The only items reserved from discussion are the salary and expenses of the Governor-General and expenditure arising from the Crown's relations with the States⁴.

No legislation is to be introduced affecting coinage, currency or the constitution or functions of the Reserve Bank without the previous sanction

¹ S. 18. Schedule I.

² See p. 129 above.

³ Ss. 100, 101, 102, 104, 107 (and see p. 133, note 4, above).

⁴ Ss. 33, 34.

of the Governor General 'in his discretion'. It may be noted in this connexion that the fears of delay in establishing the Reserve Bank did not materialise¹. The Reserve Bank of India Act was passed in 1934, and the Bank began to operate in 1935. The Governor and Deputy Governors of the Bank are appointed by the Governor General 'in his discretion', the directors in the 'exercise of his individual judgment'².

The Federal Government is to be on the same British model as the Provincial Governments. There is to be a Council of Ministers not more than ten, and the instructions to the Governor General as to their appointment are identical with the corresponding instructions to the Governor. The Governor General is charged with eight 'special responsibilities', seven of which are the same, *mutatis mutandis* as the Governors, the eighth 'the safeguarding of the financial stability and credit of the Federal Government'. The Governor General's duty to deal 'in his discretion' with 'tribal areas' is comparable with the Governors' duties with regard to 'excluded areas'³.

Dyarchy

So far the Federal form of government is much the same as the Provincial, but, as has been foreshadowed in the preceding chapter, there is a great difference between them. In accordance with the decision which emerged from the Round Table Conference and was embodied in the White Paper, dyarchy is reproduced at the Centre. The Governor General is required to 'act in his discretion' not only, like the Governors, in such matters as the appointment of Ministers and the summoning of the legislature, but also as regards defence, external affairs, 'except the relations between the Federation and any part of His Majesty's dominions', and ecclesiastical affairs—the last being only concerned with the upkeep of the chaplains and churches needed as long as British officials and soldiers continue to serve in India. These matters are not to be withdrawn from discussion in the legislature, but the supplies for dealing with them will not be subject to vote. The Governor General, again, is to be free to consult Ministers in charge of other departments on these 'reserved' matters but they are not to have the right to advise him, he is to be assisted not by Ministers responsible to the legislature but by 'counsellors', responsible only to him. These counsellors need not be members of the legislature, but they are to be entitled to take part in its proceedings. For the administration of the 'reserved departments' as for the discharge of the 'special responsibilities', the Governor General is to be furnished with similar powers of legislation to those given to Governors for similar purposes⁴.

There is one other important provision for the Centre which does not apply to the Provinces. The Governor General may appoint a Financial Adviser, responsible to him who would assist him in the discharge of his 'special responsibility for safeguarding the financial stability and credit

¹ See p. 130 above.

² Ss. 152, 153.

³ Ss. 9, 11, 12. *Draft Instructions to Governor General* [Cmd. 4805] 1935.

⁴ Ss. 11, 43, 44.

of the Federal Government', and might also be consulted by Ministers. The Governor-General would appoint this Adviser 'in his discretion', but before any appointment other than the first were made, he would have to consult his Ministers.¹ This provision, it will be noted, is optional, and the possible Adviser's duties are limited. Finance in general is to be entrusted to a Finance Minister, responsible to the legislature.

As regards all the other Federal departments, in so far as the use of his discretionary or individual judgment is not concerned, the Governor-General is required by his Instructions—in the same terms as the Governors—to act on his Ministers' advice.² To that extent he is *ipso facto* relieved from the control which had been exercised by the Secretary of State ever since the latter's office was created. But in the use of his discretionary or individual judgment, just as the Governors are to be controlled by him, so he is to be controlled by the Secretary of State.³

As to the civil service, the most important provisions of the Act are those which maintain the existing powers of the Secretary of State to recruit, control and secure the rights of the Indian Civil Service, the Indian Police, and the civil branch of the Indian Medical Service. That this is not intended as a permanent arrangement is shown by the proviso 'until Parliament otherwise determines' and by the injunction laid on the Governor-General to recommend modifications of the system if and when he thinks fit.⁴

The judicature is dealt with in Part IX of the Act. It re-establishes with some reforms in their constitution and procedure, the High Courts in the Provinces, and creates a new Federal Court, consisting of a Chief Justice of India and not more than six puisne judges, which is to exercise the sole right of judgment on issues between the Federation, the Provinces and the federated States on questions of law or of fact on which the existence or extent of a legal right depends. It can also hear appeals, under certain conditions, from High Courts in British India or State Courts on substantial questions as to the interpretation of the Act or of Orders-in-Council made thereunder. Appeal to the Judicial Committee of the Privy Council is permitted in some cases without leave, in others with the leave of the Federal Court or the Privy Council.⁵

In the light of Canadian experience and in accordance with the South African precedent, the Joint Select Committee had recommended that the management of railways should be excluded from the normal scope of parliamentary control. Part VIII of the Act provides for a Federal Railway Authority for the 'regulation, construction, maintenance and operation of railways'. Its members are to be appointed by the Governor-General, three sevenths of them 'in his discretion', the rest on Ministers' advice.⁶

Lastly, the Act abolishes the India Council and provides in its place a body of Advisers, not less than three nor more than six, for the Secretary of

¹ S. 15 ² *Draft Instructions*, pp. 3-4

³ Ss. 200, 204, 205, 207, 208, 219-31

⁴ S. 14

⁵ Ss. 181, 182 Schedule VIII.

⁶ Ss. 244-50.

State. He is not obliged to consult them or to accept their advice except as to his duties regarding the civil services. The cost of the India Office is now finally to be charged to British revenues.¹

III THE APPROACH TO DOMINION STATUS

Such were the main provisions of the Act of 1935. How, it may now be asked, was it related to the principles and policies discussed in the preceding chapters of this Report?

In the first place it committed India to a federal form of government. It finally broke up the unitary system under which British India had hitherto been administered. The principle of the constitution of 1919 had still been decentralisation rather than federation. Under the new Act the Provinces are for the first time recognised in law as separate entities, exercising executive and legislative powers in their own field in their own right, free in normal circumstances from Central control in that field. The Federal Legislature, it is true, is empowered to invade the Provincial field in the event of war or very grave disturbance, the Governor General may refuse assent to bills reserved by Governors, but these are powers which might be exercised by the Centre in any federal system without destroying its federal character.² Provincial autonomy is more seriously infringed by the control exercised by the Governor General over the Governors' use of their special powers. Both when 'acting in their discretion' and when 'exercising their individual judgment' they are to be responsible to him. But that was not intended to be a permanent part of the constitution. It represents the residue of control retained by the British Parliament during the period of transition—a control which, as has been explained, can only be exercised through the Secretary of State and the Governor General.³ The most markedly federal aspect of the Act is the provision for indirect or Provincial election to the lower house of the Central Legislature in all other federations the popular chamber represents the unitary or national rather than the federal principle. The question of residuary powers, on the other hand which is sometimes regarded as a test of the relations between the Centre and the federated units, has been left unsettled in principle. It may be said in support of the federation contemplated by the Act is a real federation the Provinces are to possess a co-ordinate, not a subordinate authority. But it is a federation with so to speak, a unitary bias. It is more akin to the Canadian federation than to that of Australia or the United States.

Secondly, the Act of 1935 committed India—the Provinces completely, the States in part—to the parliamentary system. It was largely modelled indeed, on the constitutions of the Dominions, all of which are parliamentary. It overrides the doubts and negations of the Simon Report. It reaffirms

¹ Ss. 278, 280.

² The Federal Government in Canada has a similar right to interfere with Provincial legislation.

³ See pp. 89 above.

the doctrine of 1917. It borrows nothing from Swiss or American methods of adjusting the relations between executive and legislature. The old contradiction, it is true, persists. Communalism is still recognised. Separate electorates are retained. But otherwise the parliamentary doctrine as applied (apart from the transitional reservations and safeguards) in all its purity. The suggestion, for example, that the Act should require the representation of minorities in the various cabinets instead of leaving it to Ministers' discretion was rejected mainly because it conflicted with the orthodox principle of collective cabinet responsibility. Thus the revolution which British opinion in this matter had so suddenly undergone twenty years earlier seemed now to have been finally confirmed. Only the little group of 'diehards' continued to assert that parliamentary government would not work in India.

Of these two main principles of the Act, the federal and the parliamentary, the second commanded the assent or at the least the acquiescence of most British Indian opinion. All Hindu politicians desired parliamentary government in British India. But on the federal question there was no such consensus of Hindu opinion. The Liberals had assented to a federation, though they wished the Centre to be as strong as possible *vis-à-vis* the Provinces, and insisted on direct British-Indian election to the lower Federal Chamber. But the Congress had never accepted the federal principle. The national government they wanted was the kind of government outlined in the Nehru Report, and that, strictly speaking, was not a federal government at all.² Nor were Liberals and Congressmen divided only on the character of the Central government. They differed also as to its scope. The Liberals had welcomed the creation of an all-India federation, and in order to achieve it they had acquiesced in the advantages offered to the States. But, unless and until the States could be so 'reformed' as to take their place in a federation on the same footing and by the same democratic methods as the Provinces of British India, the Congress refused to contemplate an all-India federation at all, and demanded that British India should forthwith obtain its independence by itself. There was more agreement among the Moslems and the other minorities. They would have preferred a looser form of federation, but they seemed in 1935 to be prepared to take their part in the operation of the Act, and, though they had not conquered their distrust of parliamentary government, to have acquiesced in this last stage of its development as in each preceding stage because the representative system had been fashioned more or less in accordance with their demands.

But the main cleavage of opinion was not so much a question of principle as of pace. The Hindu Liberals had failed to secure a modification of the reservations and the safeguards, but they had fully agreed that some reservations and some safeguards were required during the period of transition to Dominion Status. All other Indians outside the Congress assented. But the Congress still firmly repudiated the very idea of a transition. At

² See p. 91 above.

its Session in the spring of 1936 it brushed the Act aside because it did not establish *Purna Suvaraj*.¹ Yet if the Act had in fact carried to its culmination the process of realising responsible government at one stroke, if it had established Dominion Status there and then, as the Nehru Report had purported to establish it it seems probable that at least the majority of Congressmen would have been satisfied. It is important, therefore, to consider in greater detail the width of the difference between Parliament and the Congress in 1935. To what extent did the status conceded to India by the new constitution fall short of Dominion Status?

The essence of Dominion Status is its assertion of equality between a Dominion and Britain and the other Dominions. India would not attain to this equality under the Act of 1935. For an unstated period India would still be subordinate to Britain in three main respects.

First, there was dyarchy at the Centre. Foreign affairs and defence were to remain in charge of the Governor General responsible to the Secretary of State. But it is important to remember that those two fields of government were the last to be taken over by the overseas nations of the Commonwealth in their advance to Dominion Status.² As regards defence, Canada, Australia and New Zealand did not assume full responsibility even for their own local defence till 1871² and South Africa, the youngest overseas member of the Commonwealth not till 1914.³ Up to those dates British regular troops had been garrisoned within their borders, mainly for the maintenance of internal peace and order.⁴ By then they had acquired an almost complete measure of self government in their other domestic concerns, but they had not yet organised their defence forces on an adequate national basis. The constitutional aspect of this situation was never in dispute. The control of the British forces on colonial soil could not be transferred to a Colonial Government. British soldiers are enlisted by the British Government on the understanding that anyone charged with their welfare and safety will be accountable in the last resort to that Government and to Parliament, and it has always been constitutionally and morally impossible, except in such emergencies as may require in time of war that one commander should control the combined forces of allied nations, to put the lives of British soldiers at the disposal of anyone not ultimately responsible to Parliament.⁵ Foreign affairs are inextricably linked with defence, since soldiers are the instruments and may be the victims of foreign policy. As it happened the older Dominions acquiesced in the continued control of major foreign policy by the British Government long after they had assumed the charge of their own local

¹ See Part II chap. 1.

² The Dominions had acquired that title before 1914 but for the sake of clarity the words 'Dominion Status' are used in this book only for the status of full equality attained between 1926 and 1931.

³ Two companies of British artillery remained in South Africa till 1916 (see p. 40 above).

⁴ In New Zealand and South Africa the native races were the main consideration.

⁵ For documents illustrating this point see R. Coupland *The Empire in These Days* (London 1935) 147-50. The most interesting case is the use of British troops in South Africa for maintaining internal order in 1913 when the Union forces were, as officially recorded, 'in a transition state'.

defence, although it was admitted that a declaration of war on that Government's sole advice would commit them to belligerency. In their commercial relations with foreign countries they had acquired a substantial measure of independence before 1914, but it was not till after the war that they asserted the right to pursue their own foreign policy in all respects. The analogy between India and the Dominions in this matter must not be pressed too far. The Indian frontier is one of the most dangerous frontiers in the Commonwealth at large, it requires a relatively large standing force for its security in peace time, and the communal schism makes the question of internal order far more serious than it is in any Dominion. Nevertheless India under the Act of 1935 might be broadly regarded as occupying the same sort of position as Canada, Australia and New Zealand occupied with regard to defence before 1871-2 and South Africa before 1914, and the same sort of position with regard to foreign affairs as all of them occupied till after 1914. In India, moreover, as in the Dominions, it was intended to ha a temporary, not a permanent position. It would last, it was understood, until India had built up a defence force of her own capable of protecting the frontier in peace time and maintaining internal order without assistance from Britain. It was also understood, of course, that India, like the Dominions, could count in time of war on all the available resources of the Commonwealth for her protection and at all times on all its naval forces for maintaining the freedom of her seas.

These considerations also apply to the retention of British officers in the Indian army and of British officials in the civil administration under the ultimate control of the British Parliament. On these points there is no analogy in the Dominions. But both officers and officials were by this time a dwindling company. They would disappear as soon as the process of Indianisation was complete.

Secondly, there were the 'safeguards', a novel constitutional device with which there was nothing really comparable in the Dominions. After the introduction of responsible government in 1845-50, Governors and Governors-General in the self-governing Colonies and Dominions were never instructed, still less expressly empowered by the constitution, to act against their Ministers' advice except with regard to the reservation of certain kinds of bills. Unquestionably the 'safeguards' were the most obvious reminder that India would not attain Dominion Status by the Act of 1935. But it should be remembered also that the most important of them—those which were concerned with the maintenance of peace and tranquillity and with the rights of minorities—were needed at least as much in the interests of India as in those of Britain. 'Frankly I am not alarmed by those safeguards', said Sir Tej Bahadur Sapru at the Round Table Conference with reference to the federal part of the constitutional scheme, and he would doubtless have said the same with reference to the Provincial part of it. 'Those safeguards are really intended in the interests of the responsible government that we are establishing at the Centre and not to strengthen the hands of British

control over us ¹ That opinion was fully shared by the Moslems and the other minorities. The safeguards seemed to them essential for their protection during the period of transition.

The safeguards moreover looked more formidable on paper than they were likely to prove in practice. They were akin to the powers of certification under the Act of 1919 which in fact were only used by the Governor General ten times between 1921 and 1937 and were only used by Governors to overcome the wrecking tactics of the Swarajist Party. They were inserted in the Act in order to prevent being done or left undone things which admittedly ought not to be done or left undone. It was to be expected therefore that Indian Ministers would not desire to do or leave undone such things and if by inadvertence or under partisan pressure they acted otherwise the Governor General or Governor would presumably point out to them that such action would involve his special responsibilities and he would only use his power of intervention in the last resort if he failed to persuade his Ministers to do what was right themselves. Sir Samuel Hoare made this point in the Joint Select Committee.

I am hoping that there would be a great deal of previous consultation between the Governor and the Ministers and I am hoping that as a result of that consultation those powers [of intervention] will very seldom be exercised. The Governor would I presume call the attention of the Minister or the Government to some case that is likely to lead to an infringement of the special responsibilities and I would have thought that if things were working well the Minister and the Government would welcome the opportunity of removing the cause of the trouble and that the Governor therefore would never have to intervene.

Furthermore while it might be necessary for a Governor General or Governor to use the power of intervention, it would be difficult for him to raise it. For action which was clearly not in the interests of the community would rally public opinion in support of the Ministers concerned and if on being overruled they should resign with the backing of the majority in the legislature the ultimate upshot would presumably be an election which would give the Ministers another and perhaps an increased majority. In the long run therefore they would either get their way or the constitution would break down.

Lastly over against the potential infringement of responsible government by the safeguards should be set the guarantee now given for its operation in all save the reserved subjects. In the Dominions responsible government was established only by dispatches from the Secretary of State directing Governors to act normally on their Ministers' advice. In India the Governor General and Governors were now formally required by a clause in their Instructions to do so wherever the reserved subjects or

'special responsibilities' or other matters of 'individual judgment' were not concerned.

There was a third element of subordination in the position of India under the Act of 1935. If the Federal Legislature were to come into being, its status would be inferior to that of the British Parliament. Its legislation would be subject to refusal of assent or to reservation by the Governor-General, acting under the control of the Secretary of State, and to disallowance by the Crown on the Secretary of State's advice; and the Secretary of State, of course, is responsible only to the British Parliament. Parliament, moreover, retained its power to legislate for British India without regard, if so it chose, to Indian wishes. The constitution itself was Parliament's creation, and Parliament could change it or repeal it altogether at will. In other words, the legal position of the Indian Legislature would be roughly the same as that of the Dominion Legislatures before the attainment of full Dominion Status. Assent, reservation and disallowance of bills still figure in the Dominion constitutions, but the convention has now been established that action in those matters can only properly be taken in accordance with the advice of the Ministers of the Dominion concerned. The British Parliament, similarly, retains the right to legislate for the Dominions, but the Statute of Westminster precludes it from so doing except at their request and with their consent. India's case would not be covered either by the convention or by the Statute. But this element of subordination was not intended by the authors of the Act to be permanent any more than the others. The question was raised in the House of Commons as to whether Dominion Status, which was now admittedly the 'natural issue' of the policy of 1917,¹ meant the status occupied by the Dominions in 1917 or Dominion Status, as the loose phrase goes, 'of the Statute of Westminster variety'. This question was answered by Sir Thomas Inskip, speaking for the Government on the second reading of the bill. 'It is Dominion Status', he said, both before and after the Statute of Westminster—by which he meant presumably that India was not to be given differential treatment, that her status would be at all times the same as that of the Dominions. And he made a further significant comment. 'It is worth while to bear in mind that special arrangements, not in the statutory safeguards but freely negotiated and agreed, are not inconsistent with the ultimate attainment of the position of a Dominion within the Empire.'² This seemed to suggest that, in the Government's view, India might not have to wait for the attainment of Dominion Status as long as had been previously supposed. Might not such an obstacle as that presented by the retention of British troops in India be dealt with by some kind of convention before their presence had been made unnecessary by the building-up of a complete Indian defence force?

It may be said, therefore, that the policy of 1935 not only confirmed and carried forward the policy of 1917. it contemplated its final culmination

¹ See Appendix IV below

² *Hansard*, cccxvii (1931-5), 1611-13

in India's attainment of complete equality with the other nations of the Commonwealth within a relatively short space of time How long that time would be depended partly on the organisation of defence and partly on the working of the new constitution. The Dominions acquired their powers of self government by usage and convention before they were confirmed by the Declaration of 1926 and the Statute of Westminster. There was scope for a similar advance under the Act of 1935. The safeguards as has been observed might never operate and so might fall into desuetude. In the reserved field at the Centre if all went well and if the Secretary of State and Parliament concurred the Governor General might make a habit of consulting Ministers and come more and more to follow their advice until at last—there was nothing in the Act to prevent it—he might appoint Indian members of the Legislature as his counsellors in that field. The optional provision for a Financial Adviser might never be brought into force or only for a time. The transfer of the remaining British officers in the Indian army and civil services from the Secretary of State's control to that of the Indian Government would require legislation by Parliament but the Act itself invited the Governor General to recommend such legislation if he thought fit. There was the possibility lastly hinted at by Sir Thomas Inskip of agreements apart from the operation of the Act. It was obviously impossible to fix a precise date by which Dominion Status would thus *de facto* be attained yet if all the leading statesmen of India could have agreed to accept the Act and to subordinate their communal and party interests to the single purpose of attaining their free nationhood as soon as possible it is hard to believe that the time would have been long.

The Act of 1935 in fact though Congressmen refused to believe it, had made possible the transference of India's destiny from British to Indian control. If the Princes and the politicians could come to an agreement as to its terms the federation of all India was assured. If Hindus and Moslems would at last take to heart the warnings and appeals of the Montagu Chelmsford Report and subordinate their communal interests to the greater welfare of the whole the attainment of Dominion Status was in sight. For the safeguards could not be made the means of maintaining indefinitely a last remnant of British rule they could only last as long as there was valid proof that they were needed. And if in the event the Act were so used as to demonstrate that India was capable of national self government the British Parliament could hesitate no longer to surrender what was left of its trust to the Indian Parliament.

It should be observed in conclusion how swift the process of constitutional advance had been—far swifter than Mr Gokhale can have hoped in 1909 or even Mr Montagu in 1917. The British system of government had been developed up to almost its final stage in a fraction of the time it had taken in Britain itself or in the Colonies. In Britain government was representative for centuries before it became responsible. The British North American Colonies obtained representative government between 1768 and

1791; responsible government on a Provincial scale between 1846 and 1849, and on a national Canadian scale in 1867, but complete self-government was not attained till between 1914 and 1931—a period from first to last of more than a century and a half. There were reasons, of course, why the process should be more rapid in India. It was not only or mainly because precedents are more quickly followed than made. It was nationalism that forced the pace. In Britain the attainment of responsible government was not a question of nationalism—it was the outcome of a contest between Parliament and a monarchy which, whatever the shortcomings of individual monarchs, was deeply rooted in the national tradition. In Canada nationalism played its part in the later stages of the evolution of self-government, but it was not a fierce or bitter nationalism because the external control from which Canada sought and easily obtained her freedom was exercised by the kindred government of a country to which most Canadians were linked by blood and sentiment. But in India nationalism was more compelling and impatient because the freedom Indian nationalists wanted was primarily freedom from the rule of foreigners. Even so, it is remarkable that a course of development which had lasted so many centuries in Britain and so many decades in the Colonies should have come so near to its conclusion in India in not rough more than a single generation

APPENDIX I

TREATY between the Honourable the English East India Company and Maharajah Soorut Sing Bahadoor, the Rajah of Bikaner, concluded by Mr Charles Theophilus Metcalfe on the part of the Honourable Company, in virtue of full powers granted by His Excellency the Most Noble the Marquis of Hastings, K G, Governor General, &c, &c, and by Oujha Kashee Nautt, on the part of Raj Rajheesur Maharajah Sroomun Sree Soorut Sing Bahadoor, according to full powers given by the Rajah,—1818

ARTICLE 1

There shall be perpetual friendship, alliance, and unity of interests between the Honourable Company and Maharajah Soorut Sing and his heirs and successors, and the friends and enemies of one party shall be the friends and enemies of both parties

ARTICLE 2

The British Government engages to protect the principality and territory of Bikaner

ARTICLE 3

Maharajah Soorut Sing and his heirs and successors will act in-subordinate co operation with the British Government and acknowledge its supremacy, and will not have any connection with any other Chiefs or States

ARTICLE 4

The Maharajah and his heirs and successors will not enter into negotiation with any Chief or State without the knowledge and sanction of the British Government, but the usual amicable correspondence with friends and relations shall continue.

ARTICLE 5

The Maharajah and his heirs and successors will not commit aggressions on any one, if by accident any dispute arise with any one the settlement of it shall be submitted to the arbitration and award of the British Government

ARTICLE 6

Whereas certain persons of the principality of Bikaner have adopted the evil courses of highway robbers and banditti and have plundered the property of many, to the great molestation of the peaceable subjects of both of the contracting parties, the Maharajah engages to cause to be restored the property plundered from inhabitants of the British territories up to this time, and for the future entirely to suppress the robbers and plunderers in his principality. If the Maharajah be not able to effect their suppression, assistance shall be afforded on his application by the British Government in which case the Maharajah will pay all the expenses of the force employed, or, in the event of his not finding means to pay those expenses, he will in lieu cede parts of his territory to the British Government, which, after the payment of those expenses, shall be restored

ARTICLE 7.

The British Government, on the application of the Maharajah, will reduce to subjection the taukoors and other inhabitants of his principality who have revolted and thrown off his authority. In this case the Maharajah will pay all the expenses of the force employed; or, in the event of not having the means, will, instead, cede parts of his territory to the British Government, which shall be restored after the payment of those expenses.

ARTICLE 8.

The Maharajah of Bikaner will furnish troops at the requisition of the British Government, according to his means.

ARTICLE 9.

The Maharajah and his heirs and successors shall be absolute rulers of their country, and the British jurisdiction shall not be introduced into that principality.

ARTICLE 10.

As it is the wish and intention of the British Government that the roads of Bikaner and Bhutner be rendered passable and safe for the transit of trade to and from the countries of Cabul and Khorasau, &c., the Maharajah engages effectually to accomplish that object within his own dominions, so as that merchants shall pass with protection and safety and meet with no impediment and with respect to custom duties the established rates shall not be exceeded.

ARTICLE 11

This Treaty of eleven Articles having been concluded and signed and sealed by Mr. Charles Theophilus Metcalfe and Oujha Kasbee Nautt, the ratifications by His Excellency the Most Noble the Governor-General and Raj Rajheesur Maharajah Sroomun Srea Scorut Sing Bahadour, shall be exchanged within twenty days from the present date.

Done at Delhi, this 9th day of March, A D 1818.

C. T. METCALFE
OUJHA KASBEE NAUTT
HASTINGS

APPENDIX II

EXTRACTS FROM PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR-GENERAL OF INDIA, 1883.

Central Provinces Local Self-Government Bill

The Hon'ble Syed Ahmad Khan said 'My Lord, I intend to vote in favour of the passing of this Bill, but, in explanation of my vote, I am anxious, with your Lordship's permission, to make a few observations on some features of this Bill. My Lord, I am one of those who believe that the success of local self-government will, in a great measure, depend upon the amount of independent power to be conferred upon the local boards and the district councils. . . I rejoice to feel that I have lived long enough to see the inauguration of the day when India is to learn at the hands of her rulers those principles of self-help and self-government which have given birth to representative institutions in England, and have made her great among the nations of the world. My Lord, I sincerely believe that all the intelligent classes throughout India sympathise with the feelings which I have expressed, that they feel grateful to the Government for the privileges which the schema of local self-government will confer upon them, and that the effect of those privileges

will be to enhance the popularity of the British rule, and to inspire the feelings of loyalty and devotion among the vast population of British India. The more real those privileges are, the more beneficial will be the results.

Having such views and feelings as these, I cannot possibly have sympathy with those who deprecate the withdrawal of Government from the direct management of local funds and local affairs, and it is natural for me to wish, as a matter of principle, that the local boards and the district councils should consist, as far as possible, of persons whom the voice of the people has elected as their representatives. But, my Lord, I feel that I am not acting inconsistently with my feelings and views in cordially supporting those provisions of this Bill which reserve to Government the power of appointing one third of the members of the local boards and district councils. I am convinced that no part of India has yet arrived at the stage when the system of representation can be adopted, in its fullest scope, even in regard to local affairs. The principle of self-government by means of representative institutions is perhaps the greatest and noblest lesson which the beneficence of England will teach India. But, in borrowing from England the system of representative institutions, it is of the greatest importance to remember those socio-political matters in which India is distinguishable from England. The present socio-political condition of India is the outcome of the history of centuries of despotism and misrule, of the dominancy of race over race, of religion over religion. The traditions and feelings of the people and their present economic and political condition are in a vast measure influenced and regulated by the history of the past. The humanising effects of the British rule have not yet demolished the remembrance of the days of strife and discord which preceded the peace brought to India by the British supremacy. India a continent in itself, is inhabited by vast populations of different races and different creeds. The rigour of religious institutions has kept even neighbours apart. The system of caste is still dominant and powerful. In one and the same district the population may consist of various creeds and various nationalities and, whilst one section of the population commands wealth and commerce, the other may possess learning and influence. One section may be numerically larger than the other and the standard of enlightenment which one section of the community has reached may be far higher than that attained by the rest of the population. One community may be fully alive to the importance of securing representation on the local boards and district councils whilst the other may be wholly indifferent to such matters.

Under these circumstances it is hardly possible to deny that the introduction of representative institutions in India will be attended with considerable difficulty and so in political risks. In a country like England where the distinctions of race no longer exist where the differences of sectarianism in religious matters have been mitigated by the advance of toleration the matter does not present such difficulties. The community of race and creed makes the English people one and the same nation and the advance of education has rendered smaller differences wholly insignificant in matters connected with the welfare of the country at large. Christian communities do not object to return Jews to represent their interests. The whole of the population of England forms but one community. It is obvious of course that the same cannot be said of India. The system of representation by election means the representation of the views and interests of the majority of the population and in countries where the population is composed of one race and one creed, it is no doubt the best system that can be adopted. But my Lord in a country like India where caste distinctions still flourish where there is no fusion of the various races where religious distinctions are still violent where education in its modern sense has not made an equal or proportionate progress among all the sections of the population I am convinced that the introduction of the principle of election, pure and simple for representation of various interests on the local

boards and the district councils, would be attended with evils of greater significance than purely economic considerations. So long as differences of race and creed and the distinctions of caste form an important element in the socio-political life of India, and influence her inhabitants in matters connected with the administration and welfare of the country at large, the system of election, pure and simple, cannot be safely adopted. The larger community would totally override the interests of the smaller community, and the ignorant public would hold Government responsible for introducing measures which might make the differences of race and creed more violent than ever. My Lord, I have dwelt upon this matter at such length in order to explain why I, a sincere admirer of the representative system, have given my cordial support to such provisions of this Bill as appear to militate against the system of election, pure and simple. Government, in reserving to itself the power of appointing one-third of the members of the local boards and district councils, is adopting the only measure which can be adopted to guarantee the success of local self government, by securing and maintaining that due and just balance in the representation of the various sections of the Indian population which the system of election, pure and simple, would fail to achieve.

APPENDIX III

EXTRACT FROM THE GOVERNOR GENERAL'S INSTRUCTIONS UNDER THE ACT OF 1919

VI. And inasmuch as the policy of Our Parliament is set forth in the Preamble to the said Government of India Act, 1919, We do hereby require Our said Governor-General to be vigilant that this policy is constantly furthered alike by his Government and by the local Governments of all Our presidencies and provinces.

VII. In particular it is Our will and pleasure that the powers of superintendence, direction and control over the said local Governments vested in Our said Governor-General and in Our Governor-General in Council shall, unless grave reason to the contrary appears, be exercised with a view to furthering the policy of the local Governments of all Our Governors' provinces, when such policy finds favour with a majority of the Members of the Legislative Council of the province.

VIII. Similarly it is Our will and pleasure that Our said Governor-General shall use all endeavour consistent with the fulfilment of his responsibilities to Us and to Our Parliament for the welfare of Our Indian subjects, that the administration of the matters committed to the direct charge of Our Governor-General in Council may be conducted in harmony with the wishes of Our said subjects as expressed by their representatives in the Indian Legislature, so far as the same shall appear to him to be just and reasonable.

IX. For above all things it is Our will and pleasure that the plans laid by Our Parliament for the progressive realisation of responsible government in British India as an integral part of Our Empire may come to fruition, to the end that British India may attain its due place among Our Dominions. Therefore We do charge Our said Governor-General by the means aforesaid and by all other means which may to him seem fit to guide the course of Our subjects in India whose governance We have committed to his charge so that, subject on the one hand always to the determination of Our Parliament, and, on the other hand, to the co-operation of those on whom new opportunities of service have been conferred, progress towards such realisation may ever advance to the benefit of all Our subjects in India.

X. And We do hereby charge Our said Governor-General to communicate these Our Instructions to the Members of his Executive Council, and to publish the same in such manner as he may think fit.

APPENDIX IV

EXTRACT FROM A SPEECH BY THE SECRETARY OF STATE FOR INDIA (SIR SAMUEL HOPE)
IN THE HOUSE OF COMMONS ON FEBRUARY 6, 1935

The House will observe that the Bill like most modern Bills contains no Preamble. There have indeed been important Acts in the past, among them the Government of India Act 1919, to which a statement of policy and intentions was prefixed. There is however no need for a Preamble in this case as no new pronouncement of policy or intentions is required. The Preamble to the Act of 1919 was described by the joint committee in their report as having

set out finally and definitely the ultimate aims of British rule in India

The committee after full consideration further asserted that

subsequent statements of policy have added nothing to the substance of this declaration

which they then proceed to quote in full in their reports as in their own words,

settling once and for all the attitude of the British Parliament and people towards the political aspirations

of India. If the committee were justified in their statements—and the Government consider that they were fully justified—there is surely nothing to be gained by reiterating words which have settled once and for all the attitude of Parliament to the Indian problem. Moreover in government and above all in the government of the Indian Empire continuity of policy is of the first importance. No Government and no Parliament can treat lightly any statement issued under the authority of their predecessors. But once the aim of a policy has been clearly determined and accepted significance attaches not to its reiteration but to the concrete measures taken in pursuance of it. The position of the Government, therefore is this. They stand firmly by the pledge contained in the 1919 Preamble which it is not part of their plan to repeal and by the interpretation put by the Viceroy in 1929 on the authority of the Government of the day on that Preamble that

the natural issue of India's progress as there contemplated is the attainment of Dominion status

The declaration of 1929 was made to remove doubts which had been felt as to the meaning of the Preamble of 1919. There is therefore no need to enshrine in an Act words and phrases which would add nothing new to the declaration of the Preamble. In saying that we stand by our pledges I include of course not only pledges given to British India and to Burma as part of British India but also our engagements with the Indian States.

Rightly understood the Preamble of 1919 which I repeat will stand unrepealed is a clear statement of the purpose of the British people and this Bill is a definite step under a great stride forward towards the achievement of that purpose. It is by acts and not by words that we claim to be judged. It is clear that we can only reach the end we have plainly set before our eyes when India has succeeded in establishing the conditions upon which self government rests nor will it attain ment be delayed by any reluctance on our part to recognise these conditions when they actually exist.

There are difficulties which she has to surmount but they are difficulties inherent in the Indian problem and not of our creation. Our policy as will be seen from this Bill and the Instructions as to the manner in which these provisions which will accompany it are to be applied is to do all that we can by sympathetic help and co-operation to enable India to overcome these difficulties and ultimately

to take her place among the fully self-governing members of the British Commonwealth of Nations. It was in this spirit that we took upon ourselves the formidable burden and responsibility of removing one of the chief obstacles to further advance by providing a *modus vivendi* in regard to the removal of communal differences. Our desire is to lend our help in the spirit of partnership in a great enterprise which may enlist the best services which this country and India may have it in their power to give.¹

¹ *Hansard, H. of C., cccxvii, 1172-4.*

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